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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4625/2015 & CM.APPL.NOS.8389/2015, 11400/2015,
17839/2015 & 17840/2015

% *Judgment dated 7th September, 2015*

SHAHJAHANBAD CGHS LTD. & ORS Petitioners
Through Mr.Salman Khurshid, Sr.Adv. with
Ms.Nagma Imtiaz, Mohd.Asad Khan and
Ms.Amra Moosvi, Advs.

versus

NCT OF DELHI & ORS Respondents
Through : Mr.Peeyoosh Kalra, ASC (GNCTD)
along with Ms.Sona Babbar, Adv. for
respondents no.1 to 3.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Present writ petition has been filed by the petitioners under Articles 226 and 227 of the Constitution of India seeking a direction to quash/ set aside the Order dated 23.4.2015 passed by Delhi Cooperative Tribunal in Appeal No.110/2013, wherein the appeal filed by the petitioners against the order dated 26.3.2014 in Arbitration Case No.38/GH/DR/ARB of 2013-14 was dismissed.
2. Notice in this writ petition was issued on 22.5.2015. Subsequently, the petitioners filed CM Appl.11400/2015 seeking stay of the office order dated 11.6.2015 passed by Assistant Registrar (Sec VII) on behalf of Registrar Cooperative Societies, New Delhi. Notice in the said application

was issued on 3.7.2015, on which date, Mr.Kalra, learned counsel for the respondent, Registrar Cooperative Societies, had informed the Court that an Administrator already stood appointed, but he was not permitted to take charge by the office bearers of petitioner no.1 society and office of the society was locked by the Administrator. Both parties agreed to maintain status quo. It was also agreed that a Chartered Accountant would be permitted to carry out audit keeping in view the last date of completion of audit, which was 28.7.2015.

3. Subsequently, two applications, being CM Appl. Nos.17839/2015 and 17849/2014, have been filed by the petitioners seeking directions (in CM Appl. No.17839/2015) of this Court to to convene the Annual General Body meeting of petitioner no.1 society, as required under Section 31 of the Delhi Cooperative Societies Act, 2003 (hereinafter referred to as the “Act”). In CM Appl. No.17840/2015 a direction is sought to receive monthly maintenance charges from the members of petitioner no.1 society, to deposit the same in the bank account and to make necessary payments.
4. While issuing notice in the aforesaid two applications on 1.9.2015, the petitioners had agreed to conduct the elections as per the provisions of the Act. The matter was adjourned for today to enable the parties to take appropriate instructions.
5. Today, while, Mr.Kalra submits that an independent person should be appointed to oversee the election process of the petitioner society and the Administrator should be authorized for the same. Mr.Khurshid, learned senior counsel appearing on behalf of the petitioners, suggests that the petitioners would not oppose the appointment of an independent person and also suggested that a former Judge of this Court should be appointed as an Observer to overlook the conduct of the election as per the Act.

6. Accordingly, the impugned order dated 23.4.2015 passed by Delhi Cooperative Tribunal is set aside. Justice Kailash Gambhir, a former Judge of this Court, (Mobile No.9871300033) is appointed as a Court Observer to overlook the conduct of the election as per the Act. As agreed, the fee of the Observer is fixed at Rs.2.50 lakhs, which shall be paid by the petitioner. It is further agreed that at the first instance the General Body Meeting would be called giving 21 days' notice and thereafter the election of petitioner society would be conducted within 60 days as per the Delhi Cooperative Act and Rules. Further, during the period of holding of elections, all statutory payments and other day-to-day payments shall be released with the consent of the Observer. It is also agreed that in case the office of the petitioner society is locked, the locks shall be opened.
7. With these observations, present writ petition and all pending applications stand disposed of.
8. Let a copy of this Order be sent to the Observer.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 07, 2015

sc/msr