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

+ W.P.(C) 2295/2016 & CM No.9885/2016 (for stay)

SURINDER SINGH & ORS

..... Petitioners

Through: Mr. S. Jagmohan Singh with Mr.
Amit Vohra & Mr. Gaurav
Chaudhary, Advs.

Versus

REGISTRAR OF SOCIETIES / FIRMS

(WEST) & ORS

..... Respondents

Through: Mr. Pankanj Sinha & Ms. Nupur
Grover, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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18.03.2016

1. The petition i) seeks the appointment of an Administrator or Receiver to take over the management and day-to-day affairs of the respondent no.2 Gurudwara Sri Guru Singh Sabha, a Society registered under the Societies Registration Act, 1860, till new Management Committee thereof is elected as per rules to manage the affairs; ii) seeks a direction to the Receiver / Administrator so appointed to update the membership list and to conduct the elections to the post of office bearers of the respondent no.2 Society; iii) seeks to restrain the respondents no.3&4 Sh. S. Trilochan Singh and Sh. S. Surjeet Singh Birghi being the present President and Secretary of the respondent no.2 Society from carry on with the proposed agenda in the meeting convened on 20th March, 2016; iv) seeks a direction to the respondent no.1 Registrar of Societies to restrain the respondents no.3&4 from carrying on day-to-day affairs of the respondent no.2 Society; and, v)

impugns the communication dated 26th February, 2016 convening the meeting of the General Body of the Society on 20th March, 2016.

2. The dispute is as to the Management of the respondent no.2, a Society maintaining and managing a Gurudwara in the colony of Sunder Vihar, New Delhi. Though the Registrar of Societies has been impleaded as a party, perhaps only to make the writ petition maintainable, but the counsel for the petitioners on enquiry is unable to state as to what is the duty which the Registrar owed and which he is failing or refusing to perform under the Societies Registration Act as applicable to Delhi. There is no provision therein which empowers the Registrar to restrain anyone in management of a society from carrying on day-to-day functions of the society or to issue any other directions.

3. It has thus been enquired from the counsel for the petitioners as to how a writ remedy is available and whether not the appropriate remedy would be the remedy of a suit.

4. The counsel for the petitioners in order to answer the said query has come armed with *Binny Ltd. Vs. V. Sadasivan* (2005) 6 SCC 657 and *Sai Sewa Dal (Regd.) Vs. Union of India* 2007 (98) DRJ 679; while in the former, it has been held that the writ remedy can also be availed of against a private entity performing a public function, in the latter a learned Single Judge of this Court held the writ remedy to be available for streamlining the management of the Delhi's oldest temple of Sai Baba known as "Chhota Shirdi" which was also managed by a Society. However, the counsel for the petitioners on enquiry whether any appeal was preferred against the latter

judgment and or the outcome thereof fairly states that he has not checked up.

5. The petitioners are but three of the members of the respondent no.2 Society. The counsel for the petitioners on enquiry states that in the year 1995 there were 288 members of the respondent no.2 Society and since then a large number of other residents of the locality which the said gurudwara serves are desirous of or have applied for induction as members and whose applications have to be considered now the membership would be in thousands. It is further contended that though as per the communication dated 26th February, 2016 one of the agendas for the meeting on 20th March, 2016 is amendment to the rules and regulations of the society but the proposed Rules and Regulations have not been circulated as is required under the existing Rules and Regulations. It is thus contended that a case for interference by this Court in writ jurisdiction in the affairs of the respondent no.2 Society is made out.

6. The counsel for the petitioners on enquiry states that there will be more than hundred such Sabhas in Delhi alone. Besides the said Sabhas, there would be hundreds of other temples and thousands of other societies. A society can be got registered in Delhi only for a charitable purpose. If this Court in its writ jurisdiction starts interfering in the management and control of and internal affairs and disputes with respect to the such societies, the writ jurisdiction of this Court would stand converted into original civil jurisdiction and this Court would not be left with any time to decide cases which truly deserve consideration thereunder.

7. The rules and regulations of the society constitute a contract between the members of the society and any disputes arising out of the said contract

have to be adjudicated in the forum agreed upon and if no forum has been agreed upon, by way of a suit and not by way of writ petition.

8. I have in *S.P. Jain Vs. Govt. of NCT of Delhi* 2013 SCC Online Del 2974, after considering *Sai Sewa Dal (Regd.)* supra and citing a host of other judgments held that the reliefs as claimed in this petition cannot be granted in writ jurisdiction. Need to repeat the same here is not felt.

9. The writ remedy is thus held to be not maintainable and the writ petition is dismissed with liberty however to the petitioners to take appropriate remedies in law.

Dasti under signature of Court Master.

RAJIV SAHAI ENDLAW, J

MARCH 18, 2016

‘gsr’..