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

+ W.P.(C) 3379/2016 & C.M.Nos.14430-14431/2016

B S SNGWAN & ORS.

..... Petitioners

Through: Mr.Subhasish Mohanty, Advocate

versus

REGISTRAR OF COOPERATIVE SOCIETIES & ANR.

..... Respondents

Through: Mr.Santosh Kr.Tripathi, ASC for R-1.

Mr.J.N.Gupta, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **10.05.2016**

1. The petitioners have sought direction that the elections scheduled by the respondent society for 24.04.2016 ought to be quashed. He had contended inter alia that the list of defaulters declared by the respondent society was without authority of law and had relied upon an order of the Registrar dated 23.12.2015. In the said order the Registrar had stated that the petitioners and others like him could not be treated as defaulters because amount claimed by the society was not towards maintenance but rather towards repairs. Respondent society has filed its counter affidavit. It submits that the order of the Registrar relied upon by the petitioners is in fact not supported by any legal provision and in the event of dispute with respect to the amounts payable, the only manner known to law was that the petitioners ought to have raised the dispute under Section 70/71 of the Delhi Cooperative Societies Act. It is further submitted

that the petitioners had only represented that 58 out of 91 members were declared defaulters and sought to be disfranchised. The society relies upon the list of defaulters which contains only 21 names.

2. This court has carefully considered the submissions. The society's submission that Registrar's order could not bind it is in the opinion of the Court, justified. The order nowhere discloses that it was made after considering the views of the society. Furthermore, if the petitioners disputed their liability to pay any amount or any part of the amount claimed by the society, it was up to them to either collectively or individually raise the dispute in that regard. Rather than doing so, they approached this court and were successful in securing an interim order that has resulted in stay of elections. Considering the overall conspectus of circumstances especially the fact that the petitioners have not succeeded in proving in the manner known to law that the amounts claimed from them were not due or payable – which can be decided only in arbitration proceedings or in the proceedings under Section 70, the court is of the opinion that the reliefs sought cannot be granted. The interim order is hereby vacated.
3. The writ petition along with pending applications is dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

MAY 10, 2016

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