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

+ W.P.(C) 3959/2016 & CM No.16700/2016 (for stay)

RAM PRAKASH SHARMA

..... Petitioner

Through: Mr. Joginder Tuli with Mr.
Ashukumar Sharma, Mr. Ayush
Gupta & Ms. Joshini Tuli, Advs.

Versus

G-BLOCK, SAKET RESIDENTS WELFARE
ASSOCIATION & ORS.

..... Respondents

Through: Mr. D.S. Arora, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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06.05.2016

CM No.16701/2016 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

W.P.(C) 3959/2016 & CM No.16700/2016 (for stay)

3. The petition impugns the Circular dated 19th April, 2016 of the respondent No.1 G Block, Residents Welfare Association scheduling the elections of the office bearers of the said Association for 15th May, 2016 and appointing the respondent no.2 N.M. Sharma as the Returning Officer (RO) for holding the said elections.
4. It is worth noting that earlier, the respondent no.1 Association had appointed Mr. Joginder Tuli as the RO for holding the election and the respondent no.2 N.M. Sharma has been appointed as the RO in place of Mr. Joginder Tuli. Mr. Joginder Tuli, who as an Advocate has filed this petition

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on behalf of the petitioner, had on an earlier occasion filed W.P.(C) No.3558/2016 in his own name, impugning his substitution as the RO by Mr. N.M. Sharma. The said writ petition came up before this Court on 29th April, 2016 when finding that Mr. Joginder Tuli while functioning as RO had exceeded his brief and started treating himself as the Administrator of the respondent no.1 Association, it was enquired from him appearing in person then as to why the petition should not be dismissed on this ground alone besides on the ground of maintainability of the writ petition. Faced therewith, Mr. Joginder Tuli had withdrawn W.P.(C) No.3558/2016 and has now filed this writ petition as an advocate on behalf of the petitioner Ram Prakash Sharma.

5. I have enquired from the counsel for the petitioner as to how a writ petition with respect to management and election of office bearers of a Residents Welfare Association registered as a society under the Societies Registration Act, 1860 is maintainable.
6. Though the Registrar of Societies has been impleaded as respondent no.3 to this petition but no relief has been claimed against it.
7. The counsel for the petitioner draws attention to Section 4 of the Societies Registration Act which requires the annual list of managing body to be filed.
8. However the same does not vest the Registrar of Societies with any powers of superintendence over the societies registered under the said Act, to intervene in the disputes relating to election of office bearers of the society. Thus on the facts pleaded, a writ petition under Article 226 would not be maintainable and the dispute if any will have to be raised by a suit

under Code of Civil Procedure, 1908.

9. Even otherwise, the Division Bench of this Court in *S.D. Siddiqui Vs. University of Delhi* MANU/DE/2950/2005 has held that if the charter / constitution of a body provides for a mechanism for adjudication of election disputes, the election disputes have to be raised in accordance therewith and if there is no such mechanism provided then a dispute relating to election can be only raised by a suit under the CPC and cannot be raised by a writ petition unless there is/are statutory provision(s) qua the holding of election and qua which direction can be issued to the statutory authority. The same is not the position under the Societies Registration Act.

10. The writ petition is thus misconceived and is dismissed as not maintainable.

Dasti.

MAY 06, 2016
'gsr'..

W.P.(C) 3959/2016

RAJIV SAHAI ENDLAW, J