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

+ **CM(M) 947/2016 & CM Nos.34665-34666/2016**

VAISH SABHA GAUTAM NAGAR Petitioner

Through **Mr.Rajesh Yadav and Ms.Chandrani
Prasad, Advs.**

versus

KAILASH CHAND GUPTA & ANR Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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22.09.2016

CM No.34666/2016

Exemption allowed, subject to all just exceptions.

CM(M) 947/2016 & CM Nos.34665/2016

1. By the present petition the petitioner seeks to impugn the order dated 19.09.2016 by which the trial court erroneously did not exercise discretion in favour of the petitioner to grant ex parte ad interim injunction. The matter was adjourned to 24th September, 2016. It is urged that respondent No.1 is acting in a grossly arbitrary and illegal manner and the conduct is likely to cause irreparable loss and injury to the petitioner.

2. It is pointed out that as per the bye-laws of the petitioner society elections to the post of Office bearers and members of the Executive body are to be held once in every year. The last elections were held on 17.01.2016 whereby respondent No.1 was elected as the President. However, on 20.08.2016 a Show Cause Notice was issued to the respondent

No.1 on account of his illegal activities. Subsequently, on 30.08.2016 respondent No.1 was suspended from the post of President.

3. On the same date by a communication respondent No.1 informed the petitioner that the Executive Committee has been dissolved and requested that the whole record of the Sabha, accounts, money, receipt book, all keys, meeting register old/new register, form etc. be released. It is pointed out that now the said respondent No.1 has appointed one Election Officer to hold fresh Executive Committee Elections. He has also stated to have on his own prepared a list of eligible voters and has plans to hijack the illegal election which is proposed to be held.

4. It appears that there is a breakdown in the functioning of the society. It would not be inappropriate that till this issue is properly gone into by the trial court elections are held. It is obvious that if any such elections are held without adjudication and consideration of the rival contentions it is likely to cause grave and irreparable loss and injury to the petitioner. Petitioner has made out a prima facie case in his favour. Accordingly, parties are restrained from conducting the proposed elections on 25.9.2016.

5. With the above direction, the present petition stands disposed of. Liberty is granted to the respondents to appear before the concerned trial court and pray for vacation or modification of the present interim order.

6. It is clarified that in case any such submission is made, the trial court is free to deal with the matter and the pending application filed by the petitioner as per law uninfluenced by any observations made by this Court above.

7. Petition stands disposed of. All pending applications also stand disposed of.

8. A copy of this order be given Dasti under signatures of the Court Master to counsel for the petitioner.

JAYANT NATH, J

SEPTEMBER 22, 2016/n