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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 76/2017**

DCM APARTMENT OWNERS ASSOCIATION (REGD)..Petitioner
Through Mr.RAjender Wali and Mr. Khalid,
Advocates

versus

M/S R.K TOWERS PVT LTD & ORS Respondent
Through Mr.Dhruv Rohatgi and Mr.Abhijit
Mittal, Advocates for R-5

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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23.01.2017

Caveat No.63/2017

Since caveator has been represented through counsel, caveat stands discharged.

CM No.2511/2017 (Exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 76/2017 & CM No.2510/2017 (stay)

1. By the present petition under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 7.12.2016 by which direction was passed to the Receiver holding that Shri Arunesh Kumar Trivedi, who is Secretary of respondent No.5, DCM Building Office Flat Owners Welfare Association will be paid his salary of Rs.50,000/- per month as directed.
2. The dispute seems to be a dispute between two Societies to control the maintenance of the DCM Building, 16, Barakahamba Road, New Delhi. The grievance of the petitioner is that firstly while passing the impugned order dated 7.12.2016 he was not heard and submits that no pass over had been given as has been recorded in the order. He further submits that by the impugned order the trial court has come to a conclusive finding that Shri

Arunesh Kumar Trivedi is the Secretary of respondent No.5 which finding would prejudice the petitioner.

3. The petitioner has filed a suit for declaration, permanent injunction and for rendition of accounts against M/s.R.K.Towers India Pvt.Ltd.. As per the plaint the petitioner seeks a decree of declaration declaring the plaintiff Society to be given the valid recognition under the head of 'maintenance of the building and common services'. There is no reference to respondent No.5 in the plaint. An application to amend the plaint is pending where relief is sought to be incorporated against respondent No.5.
4. In my opinion, a perusal of the impugned order shows that the finding recorded that Shri Arunesh Kumar Trivedi is the Secretary of respondent No.5 is only a prima facie finding for the purpose of passing of the interim order and cannot bind the petitioner at the time of passing of final order. In any case, the dispute is between the two Societies, and one of them is to control the management of the building. Petitioner is not really concerned with the internal affairs of respondent No.5 Society unless the said respondent No.5 is recognised to be the main society. Hence, merely because Mr.Arunesh Kumar Trivedi is accepted as Secretary of respondent No.5 society causes no prejudice to the petitioner.
5. With the above clarification the present petition is dismissed. All pending applications also stand disposed of.

JAYANT NATH, J

JANUARY 23, 2017

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