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

+ **FAO 199/2016 & C.M.16729/2016 (for stay)**

SANJEEV RAI VAID & ANR.

..... Appellants

Through: Mr.Muneesh Malhotra and Ms.Sonali
Rastogi, Advocates

versus

GENERAL MOHYAL SABHA (REGD.) & ORS. Respondents

Through: Mr.H.S.Jaggi and Mr.Hardik Luthra,
Advocates for R-1, R-2 and R-6.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **16.08.2017**

1. It is seen that the two appellants are the plaintiffs in the suit. Challenge of the two plaintiffs/appellants by this appeal is to the interim order of the trial court dated 29.03.2016 by which the trial court has dismissed the injunction application filed by the appellants/plaintiffs against the election process and the results of the respondent no.1/defendant no.1 society conducted on 13.09.2015.

2. Admittedly, the two appellants/plaintiffs are not contestants to any post of any office bearer of the respondent no.1/defendant no.1 society. As per the election results the successful candidates were elected by 65% votes being cast in their favour and they having secured 1700 votes out of 2800. There is in this regard the report of Election Observer so far as these factual aspects with respect to the voting. This Election Observer's report, so far as number of votes is concerned, is not challenged by the plaintiffs in the suit and nor is

being challenged by respondents no.2 to 41 as per statement of their counsel before me.

3. Accordingly, in my opinion, in this type of suit a legal issue arises from admitted facts as to the *locus standi* of the two plaintiffs to challenge the elections, more so when the two plaintiffs/appellants are not the candidates for any post of any office bearer of the respondent no.1 society. This court, however, does not opine by one way or the other for or against the parties to the suit and this issue will be decided by the trial court in accordance with law. I may note that once there are admitted facts on record, the suit can be disposed of under Order 12 Rule 6 CPC including if so required by framing of a preliminary issue.

4. In view of the above, this appeal is disposed of as not pressed but the trial court is directed to act in terms of the observations in the present order and decide the issue as stated above.

5. Parties are directed to appear before the concerned trial court on 27th September, 2017, the date already fixed before the concerned court. Trial court is requested to make earnest endeavour to dispose of the issue in question with reasonable expedition.

VALMIKI J. MEHTA, J

AUGUST 16, 2017

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