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

+ CM(M) No.969/2017

RANAJIT BHATTACHARJEE & ORS

..... Petitioners

Through: Ms. Madhumita Bhattacharjee, Ms.
Tuba Mohdi and Ms. Urmila Kar
Purkayastha, Advs.

versus

ANIRUDDHA SARKAR & ORS

..... Respondents

Through: Mr. Rajeshwar Dugal, Mr.
Madhuvendra Jha and Mr. Mayank
Sharma, Advs. for R-1 to 14.
Ms. Namita Roy, Adv. for R-15&16.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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21.09.2017

1. This order is in continuation of the earlier order dated 6th September, 2017.
2. The counsel for the respondents no.1 to 14 and the counsel for the respondents no.15&16 appear.
3. All the three counsels are agreeable to what was proposed in the order dated 6th September, 2017 i.e. for elections, at the earliest, of the respondent no.15 Mahavir Enclave Kali Bari Samiti, which were last held in 2012 and as per the Constitution of respondent no.15 Mahavir Enclave Kali Bari Samiti (MEKBS), registered as a Society under the Societies Registration Act, 1860, are to be held every two years.
4. The counsels state that the elections be held immediately after the ensuing *Durga Puja*.
5. On enquiry it is informed that the Receiver appointed by the Suit

Court has been paid emoluments @ Rs.20,000/- per month till the month of September, 2017; rather, the counsel for the respondent no.15 MEKBS states that now no monies are left in the coffers of the Society.

6. It is made clear that the Receiver appointed by the Suit Court is not to be paid any amount beyond the month of September, 2017 and the scope of his duties will now be confined only to ensure the smooth holding by MEKBS of the *Durga Puja* celebrations.

7. The Receiver is directed to forthwith stop exercising any other rights with respect to the affairs of MEKBS, particularly of enrollment of members.

8. The counsel for the respondents no.1 to 14 has contended that a date for holding of the elections be fixed; he also states that there are disputes as to the membership of MEKBS.

9. It appears to me that for the purpose of holding the elections which are due, the undisputed list of members if any should be considered. However this petition under Article 227 of the Constitution of India is not concerned with all the said aspects.

10. It is unfortunate that the parties who have joined together to form a Society are unable to decide amongst themselves.

11. There is no option but to leave the aforesaid aspects to be considered and decided by the Suit Court.

12. Accordingly, this petition is disposed of directing the JSCC-ASCJ-cum-Guardian Judge, Dwarka Courts, Delhi to, in Civil Suit No.25278/2016, after hearing the counsels, make an order for holding at the earliest of elections of the Executive Committee of the respondent no.15

MEKBS in accordance with the Constitution of the respondent no.15 MEKBS.

13. On enquiry, it is informed that the suit is listed next on 14th October, 2017.

14. The JSCC-ASCJ-cum-Guardian Judge is requested to pass an order in aforesaid terms latest by end of November, 2017.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 21, 2017

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