

S-10, 11 & 37

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

+ CM(M) 1336/2017

RANAJIT BHATTACHARJEE & ORS Petitioners

Through: Ms. Madhumita Bhattacharjee with
Ms. Tuba Mohdi, Advs.

versus

ANIRUDHHA SARKAR & ORS Respondents

Through: Mr. Rajeshwar Dagar, Ms.
Madhurendra Jha & Mr. Suneet
Aggarwal, Advs. for R-1 to 14.
Ms. Namita Roy & Mr. Abhijit Advs.
for R-15 & 16.

+ CM(M) 1430/2017

MAHAVIR ENCLAVE KALI BARI SAMITI & ANR Petitioners

Through: Ms. Namita Roy & Mr. Abhijit Advs.

versus

ANIRUDDHA SARKAR & ORS Respondents

Through: Mr. Rajeshwar Dagar, Ms.
Madhurendra Jha & Mr. Suneet
Aggarwal, Advs. for R-1 to 14.

+ CM(M) 159/2018

BASANA DAS Petitioner

Through: Mr. Atanu Saika, Adv.

versus

ANIRUDDHA SARKAR & ORS Respondents

Through:

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CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER
% **07.02.2018**

1. The three petitions at hand raise questions with regard to the elections to the management committee of society named and style Mahavir Enclave, Kalibari Samiti with office at New Delhi -110045. It appears that from a civil suit (no. 25278/2016) on the subject which is pending on the file of Additional Senior Civil Judge, South-West District, Dwarka Court, Delhi some proceedings [CM(M) 969/2017] had to be taken out in this Court wherein directions were given having a bearing on the subject of elections which concededly were long overdue. It is against the said backdrop that the trial Court passed an order dated 16.11.2017 for putting in position arrangements for elections to be held under the watch of returning officer appointed by the Court.

2. It is against the above backdrop that the first captioned petition i.e. CM (M) 1336/2017 was filed. The order passed in the said matter on 24.11.2017 would read as under:

"Heard.

Issue notice to the respondents, on requisite steps being taken, returnable for 07.02.2018. Service on the respondents, additionally through their respective counsels.

Ms. Namita Roy, Advocate accepts notice for respondent Nos.15 and 16.

The elections in terms of the directions of the Civil Judge by the impugned order dated 16.11.2017 are scheduled to be held on 26.11.2017.

Having regard to the directions given to the Civil Judge by order dated 21.9.2017 in CM(M) No.969/2017, it would be inappropriate to stay the elections. However, it is clarified that

the result of the elections would be subject to decision on merits on the petition at hand.

Having regard to the submissions made, it is directed that the management of the society will not be handed over to those declared elected in this election till next date of hearing. Meanwhile, the Returning Officer would preserve the ballots and other connected material in his safe custody.

Compliance of Order XXXIX Rule 3 CPC be made within two days.

Copy of the order dasti under the signatures of the Court Master".

3. The second captioned petition, raising similar questions, was filed on close heels of the first, on 19.12.2017 when notice was issued in that matter to the respondents for it to be taken up with the first captioned petition today. The third captioned petition has been filed today by one of the persons claiming to be a member of the society, whose claim to be a legitimate voter was rejected by the trial Court by the order impugned.

4. The respondents in all these three matters have appeared through counsel.

5. After some hearing, it is agreed by all sides that the petitioners in these cases be given liberty to submit their respective objections to the conduct of the elections in terms of the impugned order of the trial Court and for the trial Court to be called upon to render its decision thereupon after hearing the parties. Given the nature of the controversy, there can be no dispute about the fact that such decision on the objections will have to be taken as early as possible, in a time bound manner. Till the objections are considered, however, the interim order granted on 24.11.2017 in CM (M) 1336/2017, as quoted above, will have to enure.

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6. Thus, these petitions are disposed of with directions that the petitioners shall have the liberty to submit their respective objections before the trial Court within two weeks of today. Upon such objections being filed with advance copy to be served upon the respondents, the trial Court will give opportunity to the respondents to submit formal replies. Needless to add all parties will be entitled to submit along with their objections or replies, as the case may be, such documents as may have a bearing or be relevant to the issues raised. The respondents shall submit reply within a week of being served with copies of objections. Given the need for expedition all parties will adhere to the time schedule and not seek enlargement of time. After replies have been filed or the right to do so stands exhausted, the trial judge will fix a suitable date for hearing the parties and make endeavour to decide the objections as early as possible, preferably within a period of two months thereof. The *ad interim* injunction as granted by this Court on 24.11.2017 in CM (M) 1336/2017 will continue to operate till the date on which the trial judge takes a decision on the objections. The trial judge will pass all necessary directions on the subject, vacating, varying or modifying the order of interim injunction, as may be deemed proper and necessary.

7. *Dasti* to all sides.


R.K. GAUBA, J

FEBRUARY 07, 2018

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