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

+ **FAO 334/2018 & CM APPL. 28465-28467/2018**

ANOOP SHARMA

..... Appellant

Through: Mr. Sandeep Aggarwal, Sr. Adv.
with Mr. Joby P. Varghese, Adv.

versus

BHUSHAN KUMAR NARULA & ORS

..... Respondents

Through: Md. Azeem, Adv, for R-1,2&5.
Mr. Anoop Sharma, R-3 in person.
Mr. Raviraj Baijal, R-4 in person.
Mr. Pawan Mathur, Adv. for R-6.
Ms. Monika Arora, CGSC for R-7
Mr. Anunaya Mehta, Adv. for R-8.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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20.07.2018

It has been submitted on behalf of the appellant by learned counsel that the respondent nos. 6 & 7 are proforma parties.

Vide the present appeal, the appellant assails the impugned order dated 09.07.2018 in CS No. 28/18 of the Court of the learned ADJ-01, East KKD Courts, Delhi whereby qua an application under Order 39 Rules 1 & 2 of the CPC filed on behalf of the appellant vide which application, the appellant had sought a stay of the election notice dated 19.04.2018 issued by the defendant no.1 to the said suit arrayed as respondent no.1 to the present appeal, and all consequential measures and actions in pursuance to the same in relation to the

declaration of voter's list and filing of nominations and also sought a restraint against the defendant nos. 1, 2 & 5 to the said suit arrayed as respondent nos. 1, 2 & 5 to the present appeal from conducting elections for the governing body of the defendant no. 8 arrayed as respondent no. 8 to the present appeal, i.e., the Commonwealth Games Village Apartment Owners Association of the Commonwealth Games Village for the period 2018 to 2020 till the time a statement is prepared by the defendant no.2 of the said suit, i.e., the respondent no. 2 to the present appeal Mr. V. Vasu for each and every member of CWGVAOA containing their respective CAM with reference to Common Area Maintenance charges dues to CWGVAOA i.e., IFSD, i.e., Interest Fee Security Deposit contribution including interest accrued paid in the CWGVAOA and till a valid General Body meeting of the society in terms of appeals was called.

It has been submitted on behalf of the appellant that there have been gross infirmities in calling for the said elections. A perusal of the impugned order dated 09.07.2018 indicates that it has categorically been observed therein to the effect that in view of the election process having been once started, the same cannot be stopped in terms of the law but that none of the parties can be allowed to manipulate anything unfairly to their advantage and therefore the result of the proposed election scheduled to be declared on the date 22.07.2018 the date on which the election is also to be held i.e 22.07.2018, as observed vide the impugned order would be subject to the scrutiny of the Court orders with it having been observed to the

effect that the plaintiff was at liberty to take appropriate steps with the matter having been re-notified for the date 31.07.2018 for further proceedings.

It is apparent in terms of the verdict of the Hon'ble Apex Court in **“SHAJI K. JOSEPH VS. V. VISWANATH AND ORS.” AIR 2016 SC 1094**, that the process of the elections ought not to be stopped. However, as rightly observed by the learned Trial Court none can be allowed to manipulate any part of the process or any result thereof unfairly to their advantage and thus, the learned Trial Court has rightly observed to the effect that the result of the proposed election to be declared on 22.07.2018 would be subject to the scrutiny of the Court orders.

In these circumstances, it is apparent that there is no infirmity in the impugned order dated 09.07.2018. However, the learned Trial Court is directed to take up the matter on the date 31.07.2018 with no adjournment being granted to either side for the consideration of the result of the election so held on 22.07.2018 to proceed further in the *lis* pending before the learned Trial Court in CS No.28/18 and to proceed expeditiously in the said suit to make an endeavour to dispose of the said suit by the date 31.10.2018.

A submission was made during the course of the proceedings now on behalf of the respondent no.3 to the present petition who is the General Secretary of the Commonwealth Games Village Apartment Owners Association of the Commonwealth Games Village that there would be problems in relation to essential services including payment

of the electricity bills of the Commonwealth Games Village which would result into difficulties to the residents of the Commonwealth Games Village if the requisite dues are not paid, inasmuch as the tenure of the present association is till 27.07.2018.

Taking the said submission into account, it is observed to the effect that the Commonwealth Games Village Apartment Owners Association, i.e., the respondent no.8 is permitted to make the payment of electricity charges by the date 27.07.2018. No further action be taken till the date 31.07.2018.

Nothing stated hereinabove shall amount to an expression of the merits or demerits or any of the submissions, contentions and evidence that may be submitted and led before the learned Trial Court in the Civil Suit.

With these observations, the present appeal is disposed of accordingly.

Copy of the order be given *Dasti*, under the signatures of the Court Master as prayed.

ANU MALHOTRA, J

JULY 20, 2018/NC