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

+ CM(M) 1339/2018

COMMONWEALTH GAMES VILLAGE APARTMENT OWNERS
ASSOCIATION Petitioner

Through: Mr. Aaditya Vijaykumar, Ms. Raddhika
Khanna & Mr. Divyanshu, Advocates.

versus

ANOOP SHARMA & ORS Respondents

Through: Mr. Joby P. Varghese, Advocate for R-1.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

% **01.11.2018**

C.M. No.45973/2018 (for exemption)

Allowed, subject to all just exceptions.

The application is disposed of.

CM (M) No.1339/2018 & C.M. No.45972/2018 (for stay)

1. On an advance copy having been served, Mr. Joby P. Varghese, Advocate has put in appearance on behalf of respondent No.1/plaintiff.

2. In this petition filed under Article 227 of the Constitution of India, the order dated 23.10.2018 passed by the court of learned Additional District Judge-01 ('ADJ'), East District, Karkardooma, Delhi, is the subject-matter of the challenge.

3. After hearing the learned counsel for the parties, learned ADJ observed that since this court, by its order dated 20.07.2018, has

already ruled that the election process/result shall be subject to the legal scrutiny by this court and, therefore, application under Order VII Rule 11 of Code of Civil Procedure ('CPC') is not maintainable and accordingly, dismissed the application. I have gone through the order dated 20.07.2018 passed by this Court in FAO No.334/2018. In fact, this was the contention of the appellant/plaintiff with regard to the order of the Trial Court dated 09.07.2018.

4. Subsequent to disposal of FAO, elections were held on 22.7.2018. Thereafter, the plaintiff/respondent No.1 was permitted to add relief by the trial court for passing a decree of declaration to declare the entire election process of the governing body of CWGVAO 2018-20 starting from the election notice dated 19.4.2018, election held on 22.7.2018 and declaration of the result on that day as null and void.

5. Learned ADJ has not decided the application under Order VII Rule 11 CPC by the impugned order under wrong impression that the result of election would be subject to scrutiny of this case.

6. Under these circumstances, the impugned order dated 23.10.2018 is hereby set aside with the direction to the learned ADJ to hear the parties afresh and decide the application under Order VII Rule 11 CPC in accordance with law.

7. The petition along with the pending application is disposed of.

VINOD GOEL, J.

NOVEMBER 01, 2018
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