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

+ **RFA 121/2019**

KHELGOAN RESIDENTS WELFARE ASSOCIATION

..... Appellant

Through: Mr. Dinesh Kumar Sabharwal, Mr.
Sameer Bhatnagar and Ms. Heena
Ahluwalia, Advocates (Mobile No.
9717823680).

versus

ASIAD VILLAGE SOCIETY & ORS

..... Respondents

+ **RFA 122/2019**

KHELGOAN RESIDENTS WELFARE ASSOCIATION

..... Appellant

Through: Mr. Dinesh Kumar Sabharwal, Mr.
Sameer Bhatnagar and Ms. Heena
Ahluwalia, Advocates (Mobile No.
9717823680).

versus

ASIAD VILLAGE SOCIETY & ORS

..... Respondents

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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11.02.2019

CAVEAT No. 126/2019 in RFA 121/2019

1. No one appears for the caveator, hence the caveat stands

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discharged.

C.M. Appl. No. 6307/2019 in RFA 121/2019 (for exemption)
C.M. Appl. No. 6325/2019 in RFA 122/2019 (for exemption)

2. Exemptions allowed, subject to just exceptions.

C.Ms. stand disposed of.

C.M. Appl. No. 6308/2019 in RFA 121/2019 (for delay)
C.M. Appl. No. 6326/2019 in RFA 122/2019 (for delay)

3. For the reasons stated in the application the delay in filing the appeals stand condoned, subject to just exceptions.

C.Ms. stand disposed of.

RFA 121/2019 and C.M. Appl. No. 6306/2019 (for stay)
RFA 122/2019 and C.M. Appl. No. 6324/2019 (for stay)

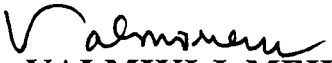
4. These Regular First Appeals under Section 96 CPC are filed by the defendant no. 1 in the suit being CS No. 9554/2016, and who was also the plaintiff in CS No. 9563/2016, impugning the judgment of the Trial Court dated 8.10.2018 which has held that it is the respondent no. 1 society which is a legally valid society which was entitled to take charge of and deal with the common areas in the Asiad Village Society which comprises of various flats and houses in Asiad Village Complex, New Delhi.

5. At the outset I would like to note that the appellant has not led any evidence in the trial court. In spite of grant of various opportunities, since evidence was not led, evidence of the appellant was closed and therefore the position which emerges is that the respondent no. 1 has led evidence and proved its case and the appellant has failed to prove its case as no evidence has been led by the appellant.

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6. The only issue which was required to be decided by the trial court was as to whether it is the appellant which is the legally valid society or is it the respondent no. 1 society which is a legally valid society to take charge and operate the common areas in the Asiad Games Village Complex. Trial court has noted in terms of the evidence led by respondent no. 1 that the respondent no. 1 is the society which was specifically authorized by the Delhi Development Authority (DDA) in accordance with its Rules and there is no authorization in favour of the appellant society, even if the appellant society may be an older society to take charge and control of the common areas and maintain the same. Once DDA had the necessary powers to designate a registered agency to take care of maintenance of the common area and take charge thereof, a society which has authorization from the DDA can only be the legally valid society to do the needful, and trial court has rightly held so in favour of the respondent no. 1. At the cost of repetition I fail to understand that what the trial court could have done once respondent no. 1 proved its case by leading evidence and appellant led no evidence.

7. Dismissed.


VALMIKI J. MEHTA, J

FEBRUARY 11, 2019

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