

IA NO. GA/1/2022
APOT/96/2022
with
WPO/2237/2022
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

ALOK KUMAR MITRA AND ORS.
VERSUS
DEBASIS GHOSH & ORS.

BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
DATE : 10TH JUNE, 2022

APPEARANCE:

Mr. Laxmi Kr. Gupta, Sr. Advocate
Mr. Debdutta Sen, Advocate
Mrs. Suchishmita Ghosh Chatterjee, Advocate
. . . for the appellants.
Mr. Kallol Bose, Advocate
Mr. Dibakar Bhattacharjee, Advocate
Mr. Samik Sarkar, Advocate
....for respondent nos. 3 to 9, 11 to 14 and 16.
Md. T. M. Siddiqui, AGP
Mr. Arindam Mandal, Advocate
. . . for the State.

The Court:- This appeal at the instance of the writ petitioners challenging the order of the learned Single Judge dated 30th May, 2022 whereby WPO 2237/2022 has been dismissed.

The dispute relates to the election of the Board of Managers of the Upohar Luxury Apartment Owners' Association and that the writ petition was filed by the appellants challenging the order passed by the Competent Authority, Government of West Bengal dated 21st May, 2022. The learned Single Judge has taken note of the provisions contained in Rule 8(1) of the West Bengal Apartment Ownership Bye-laws, 2022 and has also found that the Association had not complied with the provisions under the law inasmuch as the notice of election was issued by fixing the date of voting but the same was not placed before the Special General Meeting. The learned Single Judge had also taken note of the fact that the Competent Authority had cancelled the

schedule of voting with understanding to the members that the programme for election will be fixed as early as possible and had found no reason to interfere in the matter.

Learned Counsel for the appellants has placed reliance upon the order dated 11th May, 2022 passed in WPA 7426 of 2022 in the matter of Ranjan Basu & Ors. vs. State of West Bengal & Ors. wherein while considering the same issue learned Single Judge had directed voting under the CDSL Platform by holding:-

“Voting shall be held under the CDSL Platform. Notice of this order should be served on the CDSL Platform to facilitate the election, in terms of practices followed for holding such elections by the CDSL Platform”.

In the present matter also, after some initial arguments, learned counsel for the appellants and the private respondents have finally agreed that the voting should be held under the CDSL Platform. A consensus has also been arrived at between the counsel for the appellants and the private respondents that before holding the voting, the Special General Meeting should be held within a time bound period in terms of Bye-law 8(1) of the Bye-laws, 2022.

In view of the consensus so arrived at between the counsel for the appellants and the private respondents, the present appeal is disposed of by directing that the Special General Meeting will now be held within a period of two weeks from today. Thereafter, the voting shall be held under the CDSL Platform as expeditiously as possible but not later than one month from today. The direction of the learned single Judge in the matter of Ranjan Basu (Supra) as quoted above will apply mutatis mutandis in the present case also.

The appeal is accordingly disposed of.

(PRAKASH SHRIVASTAVA, C.J.)

(RAJARSHI BHARADWAJ, J.)