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

+ C.R.P. 220/2024, CM APPL. 40765/2024 (stay)

ANJUMAN E HAIDERI THROUGH ITS GENERAL
SECRETARYPetitioner

Through: Ms. Tasneem Ahmadi and Ms. Pragya
Rathi, Advocates.

versus

DR. RIZWAN ALI & ORS.Respondents
Through: Mr. Syed Hasan Isfahani, Advocate.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER
18.10.2024

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C.R.P. 220/2024

1. The Revision Petition under Section 115 of CPC filed on behalf of the petitioner against the Order dated 09.05.2024, passed by learned ACJ-CUM-CCJ-ARC dismissing the Application under Order 7 Rule 11 CPC filed by the revisionist/defendant.
2. Briefly stated, a suit has been filed by the respondent/plaintiff with the following prayer:-

- “(a) pass the decree declaring the election dated 13.11.2022 and result declared dated 13.11.2022 electing defendant No. 3 to 22 as office bearers of Defendant No. 1 as null and void; and*
- (b) pass a decree declaring fresh election of Defendant No. 1 by appointing Returning Officer with a direction to hold election after publishing fresh list of members/voters after verifying record of society; and*



- (c) *pass a decree of perpetual injunction against the Defendant No. 3 to 22 not to interfere in the affairs of the Defendant No. 1 and appoint Commissioner to look after the affairs of Defendant No. 1 till fresh elections are not held; and*
- (d) *pass such and further order as this Hon'ble Court may deem fit and proper in the facts of the case."*

3. The revisionist/defendant herein sought rejection of the Suit on the ground that the Revisionist society is admittedly managing the affairs of the Dargah Shah E Mardan Aliganj and other Waqf properties being part of the Shia Waqf on behalf of the Delhi Waqf Board as Management Committee. The Suit is claimed to be liable for rejection under Section 85 of the Waqf Act, 1995, which provides the jurisdiction of a Civil Court in respect of any dispute, question or other matter relating to any Waqf property or other matter which is required by or under this Act, be determined by the Tribunal.

4. The learned ACJ referred to Section 85 of the Waqf Act, to conclude that there was no complete bar of the jurisdiction of the Civil Court. It was further observed that only a Declaration in regard to the elections conducted by the defendant No. 1/revisionist, was sought to be declared as null and void. Therefore, it was held that the Civil Suit is maintainable and the Application under Order 7 Rule 11 CPC of the revisionist was dismissed.

5. Aggrieved by the impugned Order dated 09.05.2024, the present Revision Petition has been filed. Essentially, the learned counsel for the revisionist has referred to Section 83 of the Waqf Act, which provides for Constitution of the Tribunal, to deal with any issue relating to management of the Waqf properties. The jurisdiction of the Civil Court to entertain any



such Suit which comes within the domain of Waqf Act, has been barred under Section 85 of the Waqf Act. It is submitted that the members who have been elected to the Executive of the Society, which has been challenged, is essentially doing the activity of the Management of the Waqf property, which comes within the domain of the Waqf Act. Therefore, the Suit was not maintainable.

6. **Learned counsel on behalf of the respondents**, however, opposes the contentions by claiming that it is only the Elections which have been challenged under the Societies Registration Act and the Civil Suit was maintainable as has been rightly held in the impugned Order.

7. In support of his contentions, the reliance has been placed on Akkode Jumayath Palli Paripalana Committee vs. P.V. Ibrahim Haji & Ors., MANU/SC/0758/2013.

8. **Submissions heard.**

9. The plaintiff/respondent by way of the Civil Judge has only challenged the Election process and not questioned the objectives of the Society or the activities of the members so elected to the Society. There is a fine distinction between the lawful election being conducted and the members so appointed and the activities carried out by the duly elected Executive, in terms of the objectives of the Society. It is quite evident from the relief sought in the Civil Suit that it is only the Elections, which have been challenged and not any of the activities pertaining to the Management of the Waqf property.

10. The judgment of Akkode Jumayath Palli Paripalana Committee on which the reliance has been placed by the learned counsel for the revisionist, is distinguishable as it dealt specifically with a Suit for



injunction for restraining the defendants from interfering with the administration, management and peaceful enjoyment of the Mosque and madrassa run by it and all the assets attached to the Mosque. It has been held categorically in the aforesaid Judgment that the case with regard to the management and peaceful enjoyment of the Mosque and madrassa and the assets related thereto, are the reliefs which fall within the jurisdiction of the Waqf Tribunal and cannot be agitated by way of Civil Suit. This Judgment do not apply to the present facts which is only pertaining to questioning of the Elections and no challenge has been made to the management or enjoyment of the Waqf property. The Application under Order 7 Rule 11 CPC has been rightly rejected.

11. There is no merit in the present Petition, which is hereby dismissed. Pending application also stands disposed of.

NEENA BANSAL KRISHNA, J

OCTOBER 18, 2024/RS