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

+ **LPA 948/2024 & C.M.Nos.55513-16/2024**

TILAK RAJ & ANR

.....Appellants

Through: Mr. Sudhir Nandrajog, Senior Advocate with Ms. Rupal Bhatia, Mr. Saurav Chaudhary and Mr. Uday Pratap Singh, Advocates.

versus

SUNIL AGARWAL & ORS

.....Respondents

Through: Mr. Akshay Makhija, Senior Advocate with Ms. Richa Kapoor, Ms. Sakshi and Mr. Kunal Anand, Advocates for R-1 to 4.

Mr. Prashant Manchanda, ASC for GNCTD with Ms. Haridas Medha Dilip, Mr. Vansh and Mr. Rashit Pandey for R-5 & 6.

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Date of Decision: 23rd September, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

CAV 472/2024

1. Since learned counsel for the caveator has entered appearance. Caveat stands discharged.

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2. Present appeal has been preferred by the appellants challenging the judgement dated 21st August, 2024 passed by the learned Single Judge in



W.P. (C) 1133/2024 titled “*Sunil Agarwal & Ors vs. Govt. of NCT of Delhi & Ors*”, filed by the respondent nos.1 to 4.

3. Mr. Sudhir Nandrajog, learned senior counsel for the appellants submits that the appellants herein are brothers and members of the respondent no.7/society but were not made parties in the underlying writ petition filed by respondent nos.1 to 4. He submits that upon becoming aware of the pendency of the underlying writ petition before the learned Single Judge, the appellants sought intervention in the writ petition only to the extent of informing the learned Single Judge that no meeting of the Managing Committee dated 13th June, 2018 of respondent no.7/Society ever took place. On that basis, the appellants sought to prevent the respondent nos.1 to 4 from projecting incorrect and false facts as also to ensure that the learned Single Judge is not misled on that account.

4. He also states that though at one stage in the impugned judgement, the learned Single Judge held that the respondent no.6/Registrar of Societies has no jurisdiction or authority to intervene in the internal affairs of the society and yet, ultimately directed the respondent no.6/Registrar of Societies to take on record the minutes of the meeting alleged to have been held on 13th June, 2018. He states that this direction would greatly prejudice the case of the appellants before the learned Trial Court *in seisin* of the civil suit bearing CS SCJ no. 313/2024 filed by the appellants. He states that the learned Trial Court would be impacted by the findings in the impugned judgement and to that extent, would cause prejudice and irreparable loss to the appellants even before the suit is adjudicated.

5. Mr. Akshay Makhija, learned senior counsel for the respondent nos.1 to 4 states that the only document directed to be taken on record is the



communication dated 13th June, 2018 which is placed at page 87 of the appeal. He states that no prejudice shall be caused to the appellants by virtue of such direction since the parties are yet to lead evidence on issues which are pending adjudication before the learned Trial Court.

6. We have heard the learned senior counsel for the parties and perused the impugned judgement on record.

7. In order to come to the core issue, it would be apposite to extract the paras 19 & 22 of the impugned judgement which are reproduced hereunder:-

“19. That apart, the contention of the Registrar of Societies that the relevant documents pertaining to the amendment in the MoA and by-laws were not provided, and therefore the communication dated 13th June, 2018 could not be taken on record under Section 12 of the Act, is thus not sustainable. There is no provision of law cited by the Registrar to substantiate this contention. The Societies Registration Act does not empower the Registrar to impose additional procedural requirements beyond those prescribed by the Act itself. The Registrar’s demand for such documentation appears to be an overreach of authority, as there is no statutory basis for requiring these specific documents to validate an amendment in the rules and regulations of a society already registered under the Act. Therefore, the Registrar’s insistence on such documentation is without legal foundation and cannot sustain.

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22. In light of the foregoing, the present writ petition is disposed of with the following directions:

a. Respondent No. 2/Registrar of Societies shall update its record as per minutes of meeting dated 13th June, 2018.

b. The letter dated 2nd November, 2020 and reply dated 28th July, 2023 to RTI application ID No. 6373-T issued by Respondent No. 2, is set aside.

c. All rights and contentions of the parties relating to the validity of minutes of meeting dated 13th June, 2018 are left open to be adjudicated by the civil court in case No. CS SCJ No. 313/24.”

(emphasis supplied)



8. It is apparent from the arguments addressed by the learned senior counsel for the respective parties that the issue in controversy revolves around the purported minutes of the meeting held on 13th June, 2018 and the alleged communication dated 13th June, 2018 claimed to have been submitted by the respondent nos. 1 to 4 to the respondent no.6/Registrar of Societies.

9. This Court finds from the observations rendered by the learned Single Judge in para 19 of the impugned judgement that only the communication dated 13th June, 2018 was taken note of and not the purported minutes of the meeting of the Managing Committee of the same date. It is apparent that in sub-para (a) of para 22, instead of referring to the communication dated 13th June, 2018, it was noted as under:-

“Respondent No. 2/Registrar of Societies shall update its record as per minutes of meeting dated 13th June, 2018.”

10. Ostensibly, learned Single Judge appears to be referring to the communication dated 13th June, 2018 which is at page 87 of the paper book, and not the minutes of meeting dated 13th June, 2018. Moreover, Mr. Makhija, learned senior counsel appearing for the respondent nos.1 to 4 states that it is only the communication dated 13th June, 2018 that the respondents were referring to and not the minutes of the meeting of the Managing Committee. He also states that he has no objection in case such clarification is issued. This Court is also of the considered opinion that the error is inadvertent. On a perusal of the record, this Court finds that the only document filed even before the learned Single Judge, is the communication dated 13th June, 2018 and not the purported minutes of the meeting of the Managing Committee dated 13th June, 2018.



11. In view of the above statement, we deem it appropriate to read sub-para (a) of para 22 of the impugned order as under:-

*“Respondent No. 2/Registrar of Societies shall update its record
as per the communication dated 13th June, 2018.”*

12. The remaining directions in para 22 of the impugned judgement are kept intact.

13. Apart from the above, this Court has not touched upon the merits of the matter pending adjudication before the learned Trial Court.

14. In view of the aforesaid, the present appeal along with pending applications stand disposed of.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

SEPTEMBER 23, 2024/rl