

Court No. - 48

Case :- WRIT - C No. - 50907 of 2015

Petitioner :- Satish Govind & Another

Respondent :- Dy. Registrar Meerut U.P. & 2 Others

Counsel for Petitioner :- Santosh Yadav, Kashif Zaidi, Nikhil Kumar, Rahul Sripat, Santosh Pandey

Counsel for Respondent :- C.S.C., Rahul Sripat, Ram Vilash Yadav, Somesh Khare

Hon'ble Suneet Kumar, J.

Ref: Civil Misc. Application No.136953 of 2016.

This application has been moved by Sri Viplav Sharma, appearing in person. The case was directed to be taken-up today as the learned counsel for the Ghaziabad Development Authority was not present on 10 May 2016.

By the present application, the applicant seeks recall/cancellation of the order dated 11 April 2016 passed in CMA No.31261 of 2016 and to dismiss the application with exemplary costs.

The writ petition, filed against the order passed by the Deputy Registrar, Meerut was disposed of on the consent on the parties and the following directions were passed:

"(i) The Competent Authority shall comply with the order dated 24 July 2015 passed in the earlier writ petition and would determine the proportionate representation for voting purpose of each apartment owners as required under the Model Bye-laws notified on 16 November 2011.

(ii) The Competent Authority while preparing the voter list, the declaration submitted by the developer shall be taken note of.

(iii) The apartment owners shall be permitted to deposit interest of Rs. 1000/- within a stipulated time, if already not deposited earlier.

(iv) The voter list of eligible members, thereafter, shall be prepared in accordance with the Act, 2010 and Rule 2011 and Model Bye-Laws.

(v) The District Magistrate, Ghaziabad shall appoint an Election Officer to conduct the elections of the Association.

(vi) The Election Officer, thereafter shall proceed to hold the elections as per the Election Schedule without questioning or entertaining any objections to the validity of the voter list prepared hereinabove.

(vii) The Board of Management constituted upon elections shall be handed over charge of the Association.

(viii) The Competent Authority, as well as, the District Authorities shall ensure that no outsider or external bodies, including associations shall be permitted to interfere in the election of the Association.

(ix) Senior Superintendent of Police, Ghaziabad shall provide requisite police force, if necessary, on the request of the District Magistrate, Ghaziabad."

The writ petition was decided after hearing the present applicant, thereafter, an application being Civil Misc. Application No. 31261 of 2016, was moved by the H.D.F.C. seeking clarification of the aforementioned judgement and order. The application was disposed of by providing the bank to operate the bank-account of the Association by the authorized signatories as available on the record of the bank.

The applicant is aggrieved by the aforementioned order. Learned counsel appearing for the other parties are present and it appears that there is serious contest between the parties as to who should operate the bank-account of the Residence Welfare Association, admittedly, till date, the Association pursuant to judgement and order dated 16 September 2015 has not yet been constituted. Learned counsel appearing for the parties would inform that already contempt petition has been preferred for non compliance. It is not disputed by the learned counsel for the applicant that there are approximately 500 residents presently residing in the Society and monthly expenses is approximately Rs.50/- lac per month. The applicant would insist that pending compliance of the judgement passed in the writ petition, the District Magistrate or Vice Chairman, G.D.A. be directed to appoint a receiver which was vehemently opposed by the counsels appearing for the parties. The applicant would insist that the matter be heard at length and appropriate order be passed.

Be that as it may, earlier order which is being sought to be recalled was passed keeping the interest of the residents of the Society, therefore, a direction was issued that the Bank would permit the Association to operate the bank-account by the authorized signatories already available on their record. The applicant seeks full fledged hearing which having due regard to the paucity of time, is not possible.

Accordingly, the case stands released.

Put up before the appropriate Court having jurisdiction after nomination from Hon'ble the Chief Justice, if possible, in the next week.

It is made clear that the matter shall not be treated as tied up or part heard to this Bench.

Order Date :- 11.5.2016
Mukesh Kr.