

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1442 OF 2020
(Arising out of SLP(C) No. 13674/2019)

THE MANAGEMENT BOARD WINDSOR PARK
RESIDENTS WELFARE ASSOCIATION
THR ITS VICE PRESIDENT MR.VIPLAV
SHARMA

APPELLANT(S)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.
WITH
CONTEMPT PETITION (C) No. 1218 of 2019

RESPONDENT(S)

O R D E R

C.A. No. 1442/2020 @ SLP(C) No. 13674/2019

Application for impleadment is allowed.

1. Leave granted.
2. We have heard learned counsel for both sides.
3. The basic issue arises from the order dated, 13.03.2018 passed by the Deputy Registrar, Firms, Societies and Chits, Meerut. On that date, the Deputy Registrar requested the District Magistrate, Ghaziabad to conduct elections and to dispose of complaints received in relation to the Windsor Park Residents Welfare Association.
4. A prayer had been made to the Registrar to conduct elections under Section 25(2) of the Societies Registration Act, 1860,(for short, "the Act') which reads as under :

"Where by an order made under sub-section (1), an election is set aside or an office-bearer is held no longer entitled to continue in office or where the Registrar is satisfied that any election of office-bearers of a society has not been held within the time specified in the rules of that society, he may call a meeting of the general body of such society for electing such office-bearer or office-bearers, and such meeting shall be presided over and be conducted by the Registrar or by any officer authorised by him in this behalf, and the provisions in the rules of the society relating to meetings and elections shall apply to such meeting and election with necessary modifications".

5. While purporting to exercise powers under Section 25(2) of the Act, the Registrar held that the last election to the Windsor Park Apartments Owners Association was held on 18.09.2016. As per model bye laws, the election of the Board of Association should had been completed by 17.09.2017, but the said elections were not held in time and, therefore, the tenure of the Board of the Windsor Park Apartments Owners Association had ended on 18.09.2017.

6. There is no doubt about the above findings. However, Shri Viplav Sharma, appellant appearing in person submitted that while making operative order, the Registrar had committed an error in requesting the District Magistrate to nominate a local officer for the purpose of holding elections to the Board of

Management of the Windsor Park Apartments Owners Association. According to Shri Sharma, the Registrar is himself obliged to hold the said election of the office bearers under Section 25(2) of the Act. The Registrar is also obliged to preside over such a meeting for election or he may authorize an officer in this behalf to do so. Thus, the Registrar has committed an error in requesting the District Magistrate to nominate a local officer for the purpose.

7. Shri Sharma, further submits that such a direction can only be given for holding meeting for elections of office bearers and not for non office bearers. We find some substance in the above submission.

8. We, therefore consider it appropriate to set aside order dated 13.03.2018 and all consequential proceedings arising therefrom, passed by the Deputy Registrar, Firms, Societies and Chits, Meerut, as affirmed by order dated 13.11.2018 passed by the learned Single Judge and order dated 11.03.2019 passed by the Division Bench of the High Court, and direct that the matter may be reconsidered by the Registrar and appropriate orders for holding election be passed after hearing both sides. Till the

elections are held, the Registrar shall take over the Management of the Association in question either himself or through a duly authorized representative. The Registrar may pass an order within a period of six weeks from the date the parties appear before him. We further direct that the elections to the Board of Management shall be held by the appropriate authority in accordance with law and the further elections to the office bearers too shall be held by the appropriate authority in accordance with law.

9. The appeal is disposed of accordingly.

CONTEMPT PETITION (C) No. 1218 of 2019

10. The contempt petition is disposed of in terms of the order passed above in the civil appeal.

.....CJI.
[S.A. BOBDE]

.....J.
[B.R. GAVAI]

.....J.
[SURYA KANT]

NEW DELHI,
FEBRUARY 11, 2020.

Mr. S.B. Upadhyay, Sr. Adv.
Mr. Santosh Mishra, AOR
Mr. Nishant Kumar, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

CA No. 1442/2020 @ SLP© No. 13674/2009

Application for impleadment is allowed.

Leave granted.

The appeal is disposed in terms of the signed order.

Pending applications stand disposed of.

CP© No. 1218/2019

The contempt petition is disposed of in terms of the order passed passed in the civil appeal.

Pending application stands disposed of.

[CHARANJEET KAUR]
A.R.-CUM-P.S.

[INDU KUMARI POKHRIYAL]
ASSTT. REGISTRAR

[Signed order is placed on the file]