

(2025) 04 DEL CK 1060

In the Delhi High Court

Case No : FAO No. 108 Of 2025 & Civil Miscellaneous Application No. 24033 Of 2025

Harjeet Singh & Anr

APPELLANT

Vs

Ansai Plaza Owners Welfare Association (Through Its Secretary) & Ors

RESPONDENT

Date of Decision : 24-04-2025

Acts Referred:

Code of Civil Procedure, 1908 — Section 151, Order 39 Rule 1, Order 39 Rule 2, Order 43 Rule 1(r)

Citation : (2025) 04 DEL CK 1060

Hon'ble Judges : Dharmesh Sharma, J

Bench : Single Bench

Advocate : Rajiv Nayar, Ashish Dholakia, Ankur Chawla, Akshay Ringe, Anuj Malhotra, Prerna Mahajan, Ishanee Kapoor, Janhavi Negi, Meghna Jandu, Raghav Sabharwal, Harsh Vardhan Singh, Ayush Shrivastava

Final Decision : Disposed Of

Judgement

Dharmesh Sharma, J

CM APPL. 24034/2025 – EXMP.

1. Allowed, subject to all just exceptions.

2. Application is disposed of.

FAO 108/2025 & CM APPL. 24033/2025

3. The appellants have preferred the present appeal under Order XLIII Rule 1(r) read with Section 151 of the Code of Civil Procedure, 1908 [“CPC”], thereby assailing the impugned order dated 17.04.2025 passed by learned District Judge-06, South-East, Saket Courts, Delhi [“Trial Court”], in a pending suit, instituted at the behest of the respondent No.1/plaintiff-Association.

4. Learned counsel for the respondent No.1/plaintiff-Association is present on

advance notice.

5. In a nutshell, the respondent No.1/plaintiff-Association has instituted a suit challenging the election of the new Executive Committee purportedly representing the members of the Ansal Plaza Mall, New Delhi, and has sought the following interim reliefs in its application under Order XXXIX Rules 1 and 2 of the CPC:

"1. Restraining defendants from declaring any election results concerning APOWA until further orders of this Court.

2. Restraining defendant from taking over the management of the plaintiff association.

3. Restraining defendant from acting on behalf of the APOWA and from taking any decision in the name of APOWA.

4. Staying the operation of the resolution passed in the meeting dated 21.02.2025 and all subsequent actions of the so-called Working Committee including but not limited to appointment of Returning Officer for conducting elections.

5. Restraining from enforcing or implementing any resolutions passed in the illegal meeting dated 21.02.2025 and directing that no steps be taken pursuant to the same.

6. Staying all the actions taken by defendants so far in relation to APOWA, including but not limited to its illegal governance, financial transactions and representational decisions.

7. Restraining defendant no.4 and 5 from taking any further steps with respect to elections of the Executive Committee of APOWA."

6. On institution of the suit on 03.04.2025, although an interim ex parte injunction was declined, a notice was ordered to be issued of the application besides summons for settlement of issues to the defendants for 07.04.2025.

7. Learned counsel for the appellants has urged that the learned Trial Court, vide the impugned order dated 17.04.2025, failed to address the issue of maintainability of the suit at the behest of the erstwhile Association. It is also contended that the learned Trial Court proceeded to pass interim directions restraining not only the newly elected Executive Committee but also respondent No.1/plaintiff-Association from managing the affairs of APOWA 'Ansal Plaza Owners Welfare Association', without first satisfying itself on the well established "trinity test". The matter is now listed for hearing on 19.05.2025 at 12.30 p.m.

8. Per contra, learned counsel for the respondent No.1/plaintiff-Association has urged that appellants have not complied with the directions passed by the Court on 17.04.2025, inasmuch as they have failed to produce the records of the elections. In view of this non-compliance, it is submitted that the learned Trial

Court rightly restrained both Associations from managing the affairs of the Association. Learned counsel for the respondent No.1/plaintiff-Association also vehemently urged that elections have been held in complete contravention of Clause 17 of the bye-laws.

9. Upon a careful perusal of the order dated 03.04.2025 passed by the learned Trial Court, it is evident that it was rightly observed that the allegations of the respondent No.1/plaintiff-Association that Working Committee was unauthorizedly constituted on 21.02.2025, and that the subsequent election process is under challenge, can only be adjudicated after the issuance of notice to the defendants. It was also rightly found that since the election process had already been completed and stage was ripe for declaration of final list of candidates, ex parte ad interim injunction was declined.

10. Without going into the merits of the case, at this stage of the matter, this Court is of the view that respondent No.1/plaintiff-Association has been aware of the developments, which have taken place since 21.02.2025 and it was at the fag end of the election process that it decided to approach the Court for seeking the aforesaid reliefs. Once it is established that term of respondent No.1/plaintiff-Association has come to an end and a new Executive Committee is in-charge and capable of running the affairs of the management, there appears to be no prima facie at this stage in favour of the respondent No.1/plaintiff- Association for restraining the newly constituted Executive Committee from running the affairs of the Association.

11. If the order of the learned Trial Court is allowed to operate, it would cause irreparable prejudice to the Members concerned and there is no reason why the newly Executive Committee be not allowed to run its affairs till a final decision is taken on the application under Order XXXIX Rules 1 and 2 of the CPC after considering all the relevant material on the record, which are yet to be submitted before the learned Trial Court.

12. In view of the foregoing discussion, the impugned order dated 17.04.2025 is hereby set-aside and, it is directed that the newly elected Executive Committee/ Body shall continue to manage the affairs of the APOWA till 19.05.2025 or till such time the application under Order XXXIX Rules 1 and 2 of the CPC moved on behalf of the respondent No.1/plaintiff-Association is decided in accordance with the law. It is directed that the defendants in the suit shall place all the relevant record of the election process before the learned Trial Court on 19.05.2025 and the learned Trial Court shall decide the aforesaid application on or before 31st May, 2025.

13. Nothing contained in this order shall tantamount to an expression of opinion on the merits of the case.

14. The present appeal is disposed of accordingly without prejudice.

15. The pending application also stands disposed of.

16. A copy of this order be sent to the learned Trial Court for information and records.