



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment reserved on : 25 March 2025**
Judgment pronounced on: 06 May 2025
+ RFA 486/2019 and CM appl. 23822/2019, CM APPL.
36866/2019, CM APPL. 53272/2019, CM APPL. 27751/2021

ANOOP SHARMA Appellant
Through: Mr. Upamanyu Sharma, Adv.

versus

BHUSHAN KUMAR NARULA & ORS. Respondents
Through: Mr. Vivek Goyal, CGSPC with
Mr. Gokul Sharma, Adv.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G E M E N T

1. The present regular first appeal is being preferred by the appellant under Section 96 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908 [“CPC”], thereby assailing the impugned judgment dated 23.03.2019 passed by the learned Additional District Judge, Karkardooma Courts, Delhi [“**Trial Court**”] in Suit Bearing No. 28/2018.

BRIEF FACTS

2. Shorn off unnecessary details, the appellant/plaintiff filed a suit against the office bearers of respondent No. 8/CWGVAOA¹, as well as respondent No. 6/Delhi Development Authority² and respondent No. 7/Ministry of Urban Development³, who are the main parties, who are representing the members/residents, who are serving in the said

¹ Commonwealth Games Village Apartment Owners Association

² DDA



two respective departments. The appellant in the present appeal is a private individual who has purchased residential unit in Common Wealth Games Village⁴ [hereinafter referred to as “CWGV”] and is also the

3. The appellant/plaintiff contends that, owing to the alleged mismanagement of the affairs of the CWGVAOA by respondent No. 1, Bhushan Kumar Narula, in collusion with his associates, Civil Suit No. 28/2018 was instituted. It is further averred that respondents No. 1 and 2, in their respective capacities as President and Treasurer of the CWGVAOA, conducted the affairs thereof in an undemocratic manner, without sanction or approval of the then Governing Body, and in contravention of the Society's byelaws.

4. In Civil Suit No. 28/2018, the appellant/plaintiff sought, *inter alia*, a direction to CWGVAOA to convene a valid GBM⁵ in accordance with the byelaws, post audit of accounts by M/s SARB & Associates and preparation of a list of eligible voters for electing a new Governing Body of the CWGVAOA. Further relief was sought for appointment of an Administrator/Judicial Observer/Commissioner to convene the said meeting, conduct elections within 45 days as per the byelaws, and act as Election Officer to ensure a fair and transparent electoral process with due access to all relevant records and information.

5. The appellant/plaintiff further asserts that during the pendency of the aforesaid suit, respondent No. 1 issued a notice dated

³ MoUD

⁴ CWCG



19.04.2018 for conducting elections of CWGVAOA, in complete breach of its byelaws. It is submitted that, as per the byelaws, the power to call elections and appoint a Returning Officer vests with the Governing Body of CWGVAOA. Clause 11 mandates a minimum Governing Body strength of seven members, with a quorum requirement of two-thirds. As on 19.04.2018, only six members remained due to suspension of six members vide order dated 17.06.2017 and resignation of two members on 12.12.2017, rendering the Governing Body non-functional. Whereas, the meeting held on 19.04.2018 was attended by only three members, falling short of the requisite quorum.

6. The appellant/plaintiff, along with respondent No. 3 (then General Secretary) and respondent No. 4 (then Executive Member and later elected General Secretary), opposed the said meeting on the ground of its illegality. It is further asserted that respondent No. 1, in the election notice dated 19.04.2018, expressly acknowledged that the proposed elections were not in conformity with the byelaws, and sought to justify the same on the ground that previous elections too had not been conducted in accordance with the byelaws.

7. It is submitted that the appellant/plaintiff filed an application under Order XXXIX Rules 1 and 2 of the CPC on 28.04.2018, seeking interim reliefs in relation to the elections, and duly served copies thereof upon all respondents. Notwithstanding the pendency of the said application, respondent No. 1 unilaterally appointed Mr. Tarsem Chand as the Returning Officer. Subsequently, the said Returning

⁵ General Body Meeting



whereby upholding the learned Trial Court's order on the settled principle that ongoing election processes ought not to be stayed, while directing that the election results would remain subject to the Court's scrutiny and reiterating the liberty granted to the appellant/plaintiff.

10. Additionally, this Court directed the learned Trial Court to consider the outcome of the election conducted on 22.07.2018 on the next date without granting adjournments to either party. Pending such consideration, the CWGVAOA was permitted to clear its outstanding electricity dues by 27.07.2018 and was restrained from undertaking any further administrative action until the next date.

11. In the meantime, pursuant to the election notice dated 21.06.2018, a voters list was published on 01.07.2018 by the newly appointed Returning Officer, comprising 366 members out of a total of 1072, based on the criterion of "*No CAM⁶ dues.*" However, in view of the resignation of the Treasurer with immediate effect on 20.06.2018, no explanation was furnished as to how the said list was verified and finalised. Thereafter, a revised list reflecting 368 members was issued on 07.07.2018, followed by a further revised list with 370 members on 16.07.2018. The basis for such additions beyond the declared cut-off date remained undisclosed by both respondent No. 1 and the Returning Officer.

12. It is further submitted that W.P.(C) No. 7284/2018 was instituted by the Central Government Employees Resident Welfare Association (hereinafter referred to as "**CGERWA**"), CWG Village—comprising residents allotted flats under the General Pool Residential



Accommodation⁷ scheme by CPWD, seeking recognition of their individual voting rights in place of a consolidated single vote cast on behalf of 440 GPRA flats, which effectively carried a voting weight of 440. In view of the Society elections scheduled for 22.07.2018 and the early stage of proceedings in the writ petition, this Court declined to pass interim directions permitting individual voting rights for the petitioners therein.

13. In the above-mentioned writ petition, on 22.07.2018, when the nominee of MoUD, approached the Returning Officer, Sh. D.D. Gupta, to cast his vote, he was denied permission on the basis that MoUD had outstanding dues for CAM. On the other hand, a resolution passed by the CGERWA, the petitioner in W.P. No. 7284/2018, dated 20.07.2018, expressed its mandate to vote in favor of the appellant as the President and his panel for other Governing Body positions. This mandate was duly communicated to MoUD's nominee. Nevertheless, in clear violation of the society's bye-laws, the Returning Officer refused to permit the nominee to vote. The nominee explicitly requested clarification on the specific bye-law provisions that would justify the denial of voting rights on the grounds of unpaid CAM dues, but despite being fully aware of the relevant bye-law, the Returning Officer refused to grant the vote.

14. In the elections held on 22.07.2018, in clear violation of the society's bye-laws, the following individuals were declared elected as

⁶ Common Area Maintenance

⁷ GRPA



the Office Bearers and Executive Members of CWGVAOA's Governing Body for the 2018-2020 term: -

S. No.	Name	Designation
1.	Sh. Avtar Singh Chauhan	President
2.	Smt. Nandita Moitra	Vice President
3.	Sh. Raviraj Bajjal	General Secretary
4.	Smt. Gouri Shankar Gupta	Joint Secretary
5.	Sh. Rupesh Kumar Jain	Treasurer
6.	Sh. Manish Singhal	Members
7.	Sh. Priyank Narayan	Members
8.	Sh. Raj Kumar Sarkar	Members
9.	Smt. Sabari Ghosal	Members
10.	Sh. Sameer Dikshit	Members
11.	Smt. Sandhya Somani	Members
12.	Sh. Sidharth Srivastava	Members
13.	Smt. Sumona Bose	Members
14.	Sh. Yogesh Sachdeva	Members

15. It is contended that the entire election process was tainted as the General Body Members were prevented from voting due to the "*No CAM dues*" criterion imposed by Respondent No. 1, which contradicted both Respondent No. 1's and CWGVAOA's positions as stated in the Written Statement before the learned Trial Court. It is averred that the election notice dated 19.04.2018 issued by respondent No. 1 contradicts the stance taken in the Written Statement filed in CS No. 3310/2016, where respondent No. 1, on behalf of CWGVAOA and signed by respondent No. 2, categorically stated that all members, irrespective of CAM dues, would be entitled to vote.

16. The appellant contends that, in deviation from this Court's direction dated 20.07.2018, the learned Trial Court adjourned the matter on 31.07.2018 to 16.08.2018 for reply and other purposes, without examining the validity of the elections held on 22.07.2018.



taking any action except payment of essential services, until the disposal of the appellant's application under Order XXXIX Rules 1 and 2 of the CPC. The learned Trial Court was further directed to make all possible efforts to dispose of the suit by 31.10.2018.

19. On 27.09.2018, the learned Trial Court considered the appellant's application under Order VI Rule 17 of the CPC seeking amendment of the plaint and allowed the same, taking into account the directions issued by this Court vide order dated 20.07.2018.

20. Meanwhile, CWGVAOA preferred CM APPL No. 43716/2018 before this Court seeking extension of the timeline for disposal of CS No. 28/2018 from 31.10.2018 to 31.10.2019, which was declined by this Court *vide* order dated 16.10.2018, there being no cogent grounds made out for such extension. Thereafter, on 23.10.2018, the learned Trial Court dismissed CWGVAOA's application seeking rejection of the plaint and fixed the appellant's application under Order XXXIX Rules 1 and 2 of the CPC for consideration on 27.10.2018. On the said date, the learned Trial Court heard the application seeking interim restraint against CWGVAOA from taking any steps other than for payment of essential services pending adjudication of the validity of the election held on 22.07.2018, but declined the relief sought and adjourned the matter to 14.11.2018.

21. The said order was assailed by the appellant by way of FAO No. 513/2018 before this Court and *vide* order dated 02.11.2018, this Court was pleased to extend the interim relief earlier granted in CM(M) No. 892/2018, thereby restraining CWGVAOA from undertaking any functions other than making payments towards



essential services. The said interim order was subsequently extended on 14.11.2018 and was ultimately confirmed by this Court *vide* order dated 04.12.2018, permitting CWGVAOA, through its Governing Body, to continue discharging payments solely for essential services, namely facility management services, electricity, water supply, hot water supply, and repairs to the solar panel system.

22. The learned Trial Court on 15.12.2019 framed the following issues in CS No. 28/2018: -

- “1. Whether the Election held on 22.07.2018 is liable to be declared null and void and the present governing body not competent to act for this reason, as the elections being violative of relevant/applicable rules /regulations/ bye-laws/ statutory requirement or any other relevant material? OPP
2. What consequential relief/(s) the Plaintiff is entitled, if issue No.1 is decided in his favour? OPP
3. Relief.”

23. In the interregnum, this Court, *vide* order dated 22.07.2018 passed in CM(M) No. 1147/2018, granted liberty to the appellant to raise objections in CS No. 28/2018 with respect to the submissions advanced by the contesting defendants—Respondent Nos. 8 to 21 herein (excluding Respondent No. 10)—wherein it was contended that the suspension of six members of the Governing Body, as effected *vide* resolution dated 17.06.2017, stood set aside by the learned Trial Court in CS No. 324/2018 *vide* order dated 09.07.2018.

24. The judgment in CS No. 28/2018 was pronounced on 23.03.2019, whereby the election held on 22.07.2018 to the Governing Body of CWGVAOA was declared null and void. Further, Sh. Tarsem Chand, Joint Secretary, Ministry of Agriculture, was appointed to assume charge of the affairs of the Society and to convene an urgent



meeting of its General Body for the purpose of taking all necessary decisions to facilitate the conduct of fresh elections to the Governing Body, in accordance with the Society's bye-laws and applicable law as well as the directions contained in the judgment.

GROUND OF THE PRESENT APPEAL

25. The appellant, being aggrieved by the decision of the learned Trial Court, further submits that despite a categorical prayer for a decree directing Respondent No.8 – CWGVAOA – to grant access to all documents and records pertaining to the affairs of the Association and to furnish complete details regarding its day-to-day functioning and management to the members of the Governing Body as and when sought, the learned Trial Court failed to consider or adjudicate upon the said relief. It is further contended that the learned Trial Court failed to consider the fact that during the course of the proceedings, the learned counsel for Respondents No. 8-21 had conceded to the appellant's prayer for access to the records of the Society, affirming that members are entitled to access the documents/records of the Association/Society as per the applicable rules. Notwithstanding this clear admission, the learned Trial Court did not pass any decree regarding the grant of access to the records, despite the specific concession made by the Respondents.

26. The appellant is also aggrieved by the finding of the learned Trial Court wherein it was held that the IFSD⁸ is to be mandatorily maintained only in the form of FDRs⁹ and that the same cannot be

⁸ Interest-Free Security Deposit

⁹ Fixed Deposit Receipts



adjusted towards alleged ‘*No-CAM Dues*’ for the purpose of determining the voting rights of a member. It is also submitted that such a finding is neither supported by the express provisions of the bye-laws of the CWGVAOA nor consistent with the stand taken by the appellant, and has resulted in the arbitrary denial of voting rights to members, thereby causing manifest injustice and prejudice.

27. The appellant is further aggrieved by the observations made by the learned Trial Court concerning his conduct, wherein, solely on account of having entered into a pre-poll alliance with respondent No.1 during the elections held in the year 2016, it has been inferred that the appellant and respondent No.1 had allegedly attempted to manipulate or “fix” the subsequent elections held on 22.07.2018. The learned Trial Court further observed that the appellant does not adhere to democratic principles and proceeded to opine that, in the event the cost of conducting fresh elections is deemed excessive or burdensome, the same may be recovered from the appellant, subject to a resolution being passed to that effect by the General Body of the Society and in accordance with the provisions of the Delhi Societies Registration Act, 1860.

28. The appellant further challenges the findings of the learned Trial Court holding that the right to vote and the right to membership of the Society are distinct, and that adoption of a “*No-CAM Dues*” criterion is permissible under the Society’s bye-laws. It is submitted that this finding is contrary to Clause 12(i) of the bye-laws, which does not permit any restriction on voting rights unless a member is formally expelled in accordance with Clause 3(f). Until such



termination occurs, a member remains entitled to participate in all affairs of the Society, including elections.

29. Moreover, in finalizing the voters list and calculating CAM dues, the provisions of the Apartment Buyers Agreement (Clause 11.2) and the Project Development Agreement (Clause 8.14) must be considered, both of which permit adjustment of the IFSD against outstanding dues. The appellant further puts forth that the learned Trial Court's finding that IFSD must be maintained only in the form of FDRs and cannot be adjusted is inconsistent with these binding agreements.

SUBMISSIONS ADVANCED

30. The Appellant submits that as on 17.06.2017, six members of the Governing Body stood suspended, effectively reducing the active strength of the Governing Body from 14 to 8. It is submitted that suspension entails temporary debarment from the rights and privileges attached to the position, including participation in meetings. Consequently, only the remaining 8 members constituted the valid Governing Body during the period of suspension. Out of these, 6 members—constituting the requisite two-thirds majority—attended the Governing Body meeting held on 18.06.2017, thereby satisfying the quorum requirement under the bye-laws. The said meeting, having met the legal quorum, validly passed resolutions. Furthermore, all non-quorate meetings held prior to 18.06.2017 were duly placed before and ratified by the Governing Body in its meeting dated 18.06.2017.



31. It is further submitted that although the appellant had entered into a lawful pre-poll arrangement with respondent No.1 through a duly executed Memorandum of Understanding during the 2016 elections, the appellant, upon being elected as Vice President of the Society, continued to discharge his fiduciary duties independently. From the inception of the Governing Body's term (2016–2018), the appellant consistently assessed issues on their merits and did not hesitate to distance himself, record dissent, or raise objections whenever any action, including those proposed by respondent No.1, appeared to be contrary to the interests or welfare of the Society and its members.

32. It is further submitted that the Memorandum of Understanding dated 14.07.2016, relied upon by the learned Trial Court, does not, at any point, indicate that it was intended as a power-sharing arrangement. The learned Trial Court failed to appreciate that the said MOU pertained primarily to matters of community welfare and mutual interest, such as the NCDRC case, the functioning of community groups, and settlement of payments, rather than electoral arrangements.

ANALYSIS AND DECISION

33. Upon hearing the learned counsels for the parties and upon perusal of the record, this Court has no hesitation in holding that the present appeal has become infructuous, in view of the order dated 24.03.2025 passed by this Court in RFA No. 269/2019 titled as '*Avtar Singh Chauhan & Ors. v. Anoop Kumar Sharma & Ors*', whereby the



(b) pass any other and/or further order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

36. A cursory perusal of the appeal and the reliefs sought reveals that the appellant's main grievance pertains to the findings recorded by the learned Trial Court, which held that the right to membership and the right to vote are two distinct rights. The appellant also challenges the finding that mere membership in the Society does not entail the right to vote in the General Body, including elections. This plea is premised on the fundamental issue that the right to vote available to members, cannot be based solely on the criterion of '*No-CAM Dues*'.

37. It is a matter of record that eligibility criteria for voting in the elections of the Governing Body has always been uniform and contingent upon the payment of the CAM charges. The same criterion has been followed in the elections to the Governing Body held on 07.03.2014, 2016-18 as well as 2018. Surprisingly, the appellant, after having contested the elections for the 2018-2020 term, wherein the same criterion of eligibility based on clearance of 'CAM CHARGES' was mandated, instituted the Suit No. 28/2018 upon losing the election. He cannot now be permitted to approbate and reprobate on the same issue. Having accepted the criterion earlier, he cannot turn around and dispute the requirement of payment of 'CAM CHARGES', merely to extend the right to vote to all members/residents in the elections to the Governing Body.

38. Be that as it may, the issues raised by the appellant no longer survives. During the hearing of the main matter in RFA-269/2019, this



Court had the opportunity to gather the views of the stakeholders in CWGV. It was the unanimous view of everyone, except the present appellant, that the impugned judgment dated March 23, 2019, had become infructuous, except for issue No. 3, which provided for holding a General Body Meeting in the manner specified in the impugned order. It is evident from the record that there has been no elected Governing Body to take charge and manage the affairs of CWGV for over five years now.

39. It is in the said backdrop, that this Court has passed detailed directions, *vide* order dated 24.03.2025 in RFA No. 269/2019, which is reproduced hereinbelow:

“30. Having heard the learned counsels for the parties and noting the near-unanimity amongst the parties, except for the objections raised on behalf of respondent No. 1, this Court allows the instant appeal, sets aside the impugned judgment dated 23.03.2019. At the same time, the following directions are issued:

(i) **A PUBLIC NOTICE** shall be issued by a Nodal Officer to each and every entitled members/registered resident individually, as well as by affixing a sufficient number of notices at conspicuous locations within the Common Wealth Games Village, including the office of the Association. This notice shall call upon them to pay and clear their CAM charges along with interest @ 18% p.a., in terms of the parameters already in effect from 01.01.2022 to 31.03.2025, within a period of two months from the date of issuance of the Public Notice, which shall be issued by 1st April, 2025;

(ii) **VERIFICATION OF VOTERS' LIST:** The Nodal Officer may commence the process of verification of the voters' list afresh, including all such members/residents who make the payment of arrears in the aforesaid manner within the time stipulated and such verification shall be done within a period of 15 days commencing the date of expiry of initial period of two months provided *vide* above clause (i);



(iii) **DISPLAY OF VOTERS' LIST:** The verified voters' list, comprising those who have cleared their CAM charges, shall be displayed at all conspicuous locations within CWGV. Additionally, information regarding the list shall be disseminated via WhatsApp groups and emails to ensure all concerned members are informed about their eligibility to participate and vote in the election;

(iv) **ARREARS OF CAM CHARGES:** Considering that, as per the unaudited report of the Nodal Officer, ₹19/- crores is due from MoUD and ₹33/- crores from DDA, it is directed that, to facilitate their officials/employees in participating and voting in the elections to the Governing Body, both DDA and MoUD shall deposit at least 50% of the aforesaid amounts with the Association within the two months period stipulated in clause (i), without prejudice to their rights;

(v) **ISSUE OF OUTSTANDING CAM CHARGES:** An appropriate call or decision on the issue of payment of arrears of CAM charges with or without interest, and the amount due from the DDA and MoUD, if any, shall eventually be taken up by an elected Governing Body, which shall be put for approval before the GBM as and when convened in accordance with the applicable bye law;

(vi) The aforesaid disposition shall be without prejudice to the rights and contention of all the parties concerned;

(vii) **DATE OF ELECTIONS TO THE GB:** It is further provided that election to the Governing Body shall be held on 20.07.2025 or such other convenient date as may be decided by the Returning Officer;

(viii) **RETURNING OFFICER:** As per the general consensus, Justice Rajiv Sahai Endlaw, a former Judge of the High Court of Delhi, is hereby nominated as the Returning Officer to conduct the elections of the Governing Body and perform all matters connected thereto, including engagement of any support staff besides being assisted by the Nodal Officer, and if need be, by any member/resident of the CWGV in his discretion so as to enable participation and exercising voting rights in the elections to the Governing Body;

(ix) **HONORARIUM:** Justice Rajiv Sahai Endlaw shall determine his own fees/honorarium, commensurating with his status and the tasks to be performed as also that of the support staff, if any, appointed for the purposes of



performing necessary measures to conduct a free and fair elections to the Governing Body.

31. As necessary corollary, it is further provided that in the event DDA and MoUD fail to deposit 50% of the CAM charges within the stipulated time, their employees/officials shall be debarred from the voting in the coming elections to the Governing Body.

32. Furthermore, it is directed that this disposition shall not be cited or treated as a precedent for future elections to the Governing Body. It is clarified that these directions have been issued solely to resolve the existing stalemate and ensure the availability of funds for the Association. This will facilitate essential services, repairs, maintenance, and upkeep of the complex and its facilities for the collective benefit of its members/residents.

33. It is also provided that any outstanding amounts, charges, or bills payable to the DDA for water consumption and maintenance, repair, and upkeep of the sewage treatment plant shall be treated as a separate category. Needless to say, issues relating thereto shall be addressed by the duly elected Governing Body.

34. In other words, this disposition shall be without prejudice to the DDA's rights and contentions to seek a set-off against outstanding CAM charges, if any, by appropriating the same towards charges or bills related to water consumption and maintenance, repair, and upkeep of the sewage treatment plant. These issues shall be addressed by the duly elected Governing Body in any event.”

40. In light of the aforementioned directions, no useful purpose would be served by rendering a decision on the merits of the present matter, raised by the appellant. By all accounts, the present appeal has become infructuous, since the very foundation of the appeal has been altered to serve the paramount interest of the members/residents of the CWGV.

41. The present appeal is accordingly dismissed.

42. All pending applications also stand disposed of.

DHARMESH SHARMA, J.

MAY 06, 2025

Sadiq/ss