

(2024) 01 J&K CK 0001

High Court Of Jammu And Kashmir And Ladakh At Srinagar

Case No: Civil Miscellaneous Case No. 14, 121 Of 2024, Caveat 40 Of 2024

Tanvir Ahmad Malik And Another

APPELLANT

Vs

Amar Singh Club And Others

RESPONDENT

Date of Decision: Jan. 12, 2024

Acts Referred:

- Constitution Of India, 1950 - Article 227

Hon'ble Judges: Rahul Bharti, J

Bench: Single Bench

Advocate: Hakim Suhail Ishtiaq

Final Decision: Disposed Of

Judgement

Rahul Bharti, J

The petitioners have approached this court to invoke supervisory jurisdiction of this court under article 227 of the Constitution of India in the peculiarity of the situation that there is an ongoing winter vacation in the civil courts in Kashmir division as a result the civil suit intended to be filed by the petitioners is not going to earn immediate entertainment and cognizance of the matter and as such the suit would be rendered infructuous even before it gets born. Accordingly, the petitioners as being the plaintiffs have approached this court to entertain the civil suit for the purpose of taking cognizance and grant of indulgence by the civil court.

Considering the nature of the subject matter of the civil suit, this court allows this petition and entertains this suit.

Mr. Javed Ahmad, Advocate along with Mr. M. Y. Bhat, Sr. Advocate accepts notice on behalf of respondents 1 and 3.

Tomorrow i.e. 13.1.2024 is said to be the date of election which is being questioned by the petitioners through the medium of civil suit in which they are setting up a prayer for decree of declaration and permanent prohibitory injunction and as per the submissions of the petitioners made in the suit the entire election exercise is illegal without mandate of the byelaws of respondent 1 which is a society registered under J&K Societies Registration Act.

This court appoints Ms. Khushnuma Chowdhary, Advocate to be Commissioner for supervising the conduct of election exercise/proceedings of respondent 1 scheduled for tomorrow. The election exercise shall be conducted by the Returning Officer appointed in the case and the Commissioner shall be apprised of the proceedings of the election by the Returning Officer. The outcome of the election shall be subject to

the outcome of the CMP for temporary injunction accompanying the civil suit which shall be adjudicated by the civil court. The Commissioner fee is fixed at Rs.50,000/- payable to her by the respondent 1.

The suit accompanying the petition is taken cognizance of and transferred to the Principal District Judge, Srinagar, who shall as per the valuation made by the plaintiffs in terms of the court fees as well as suit valuation, transfer the suit to the civil court of competent jurisdiction, which shall accordingly deal with the matter by inviting written statement from the respondents and carry out adjudication including the application for grant of interim relief.

The election exercise so conducted shall be subject to the outcome of the CMP.

This petition is, accordingly, disposed of.

Caveat discharged.

Copy of this order shall be provided to learned counsel for the parties and to the Commissioner under the seal and signature of Bench Secretary of this Court.