

ITEM NO.7

COURT NO.9

SECTION XI-A

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Civil Appeal No(s). 3734-3735/2024

ASSOCIATION FOR THE WELFARE OF THE  
HANDICAPPED & ORS.

Appellant(s)

VERSUS

K P MOHAMMED &amp; ORS.

Respondent(s)

IA No. 228686/2024 - ADDITION / DELETION / MODIFICATION PARTIES  
IA No. 38121/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT

IA No. 38120/2024 - EXEMPTION FROM FILING O.T.  
IA No. 251146/2024 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES  
IA No. 42321/2024 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES  
IA No. 240579/2024 - STAY APPLICATION)

WITH

Diary No(s). 23197/2024 (XI-A)

IA No. 228618/2024 - ADDITION / DELETION / MODIFICATION PARTIES  
IA No. 122517/2024 - CONDONATION OF DELAY IN FILING  
IA No. 122521/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT  
IA No. 122520/2024 - EXEMPTION FROM FILING O.T.  
IA No. 122531/2024 - PERMISSION TO PLACE ON RECORD SUBSEQUENT  
FACTS)  
SLP(C) No. 23672/2024 (XI-A)

IA No. 232234/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT)

Date : 20-11-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE C.T. RAVIKUMAR  
HON'BLE MR. JUSTICE SANJAY KAROL

For Appellant(s) Mr. P N Ravindran, Sr. Adv.  
Mr. Basant R, Sr. Adv.  
Mr. Mks Menon, Adv.  
Mr. M K S Menon, Adv.  
Mr. Mohammad Sheriff, Adv.  
Mr. Mohammed Sheriff, Adv.

Ms. Usha Nandini V., AOR  
 Mr. Biju P Raman, Adv.  
 Mr. Shashank Menon, Adv.  
 Mr. John Thomas Arakal, Adv.  
 Mr. Amit Mithal, Adv.  
 Mr. Kavinesh Rm, Adv.  
 Mr. Naman Vashishtha, Adv.

For Respondent(s) Mr. V Chitambaresh, Sr. Adv.  
 Mr. K. Rajeev, AOR  
 Mr. C Govind Venugopal, Adv.  
 Ms. Niveditha R Menon, Adv.  
 Mr. Pranav Krishna, Adv.  
 Mr. Aditya Verma, Adv.  
 Mr. Tarun Kumar, Adv.

Mr. Shoeb Alam, Sr. Adv.  
 Mr. Bijo Mathew Joy, AOR  
 Ms. Gifty Marium Joseph, Adv.

Mr. Karthik S.d., AOR

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

The *lis* involved in these civil appeals essentially relates to the dispute on the administration of a society, namely, "the Association for Welfare of Handicapped" (for short 'AWH').

Leave was granted on 19.02.2024, after condoning the delay.

Pursuant to the receipt of notice, the respondents have entered appearance.

Heard learned Senior Counsel appearing for the appellants and learned Senior Counsel appearing for the respondents, for the purpose of passing an interim order.

The indisputable fact is that the AWH has been under the administration of receiver appointed by the Court, for the past more than a decade.

True that, in the judgment under challenge, there was a direction to conduct an election to AWH by the Advocate Commissioner appointed by the Court. The main dispute is with respect to the entitlement of 23 persons to cast vote. It is now submitted by the learned Senior Counsel for the appellants that out of the said 24 persons, one person is no more. The appellants would further contend that those 23 persons are not entitled to cast vote, whereas the respondents would contend otherwise. Be that as it may, there cannot be any doubt with respect to the position that despite the order under challenge in the appeal, the date for election is yet to be notified though an Advocate Commissioner was appointed to conduct the election.

To a pointed query by this Court as to whether any provision is there in the Societies Registration Act, 1860, under which the AWH was registered, prescribing the procedures for election, it was answered by both sides in the negative.

*Prima facie*, we are of the view that absence of specific provisions regulating an election in the statute cannot be a reason for holding elections without the basic requirements for conducting an election to any society, which is supposed to be the democratic institution at grass root level.

At any rate, there cannot be any doubt with respect to the position that sine qua non for conducting the election to such a body is a properly drawn voters list. But, then, the entire dispute is with respect to the right to vote in the election.

In such circumstances and taking note of the fact that the last election to AWH was conducted more than 14 years back, we are

of the considered view that an interim order on the following lines can be passed:-

(i) Let the Advocate Commissioner appointed by the Court, as per the impugned judgment under challenge, declare the date of election after complying with the necessary basic procedures for conducting election.

(ii) An election shall be conducted, on the date fixed by the Court appointed commissioner.

(iii) 23 persons whose rights to cast votes are under challenge be permitted to cast vote in one box and the votes cast by the others whose such rights are not at issue be put in a separate box.

(iv) After the election, the right to cast votes of the aforesaid 23 persons would be decided in these appeals and the question whether such votes are to be counted or not to be counted would depend upon the outcome of the pending appeals. The counting and declaration of result of the election shall be done only after obtaining permission from this Court.

List in the month of February, 2025.

(VARSHA MENDIRATTA)  
COURT MASTER (SH)

(MATHEW ABRAHAM)  
COURT MASTER (NSH)