

ORDER ON I.A.No.III

The learned counsel for the plaintiff No. 3 has filed the present application seeking to pass an order of status quo against the defendant board formed in the year 2021-22 until irregularities are published in the audit report dated 30.03.2022 are settled / recovered.

2. In the affidavit annexed to the application it is submitted by the plaintiff No. 3 that the defendant has conducted a general body meeting and the plaintiff had questioned the illegal act of the defendant. The defendant is now trying to wash its hands of the illegalities committed by them by calling for fresh elections without conducting AGM. The members of the board are exploiting their posts and Rs. 14,00,000/- are missing as per the audit report. The defendant has called for election without settling the irregularities, therefore it is necessary to pass an order of status quo in this regard and not to dissolve the board until the same are solved. Hence the application and it is prayed to allow the same.

3. The defendant has filed objections denying the allegations made against the board. Further it is stated that they are trying to solve the dispute and they have also called for meeting for the same. Further it is submitted that they do not have objection with respect to the prayer sought for status quo as it is in the best interest of the association and its members and has stated that they are ready to initiate appropriate action.

4. Heard learned Counsel for the plaintiff No. 3 and defendant on the application.

5. The plaintiff has filed the present suit for reliefs of permanent injunction and mandatory injunction against the defendant who is a Apartment Owners' Association. The relief sought in the plaint is injunction from conducting general body meeting and to permit the plaintiff to verify the books of accounts and other documents. In the present application, the plaintiff No. 3 is seeking to pass an order of status quo under Section 151 of CPC to which the defendant has not objected.

6. The interim relief sought in a suit has to be in the aid of final relief. Here the interim relief sought by the plaintiff is not in aid of the final relief. Even though it is stated that there is certain illegalities with respect to the association, the same has not been put forward in the pleadings and there is no prayer in this regard sought in the plaint. Such being the case merely because the defendant has submitted no objection, the application cannot be allowed. Further since the order of status quo is also governed by Order 39 Rule 1 and 2 of CPC invoking Section 151 of CPC for the same cannot be permitted. Therefore under this circumstance, the prayer sought for by the plaintiff cannot be allowed. Hence for the above said reasons, I proceed to pass the following:

ORDER

I.A.No.III filed by the plaintiff No. 3 under Section 151 of CPC is rejected.

For settlement and compliance under Section 89 of CPC by: 26.06.2023

(Kiran.P.M.Patil)
IV Addl. Civil Judge, BRD, Bengaluru.