

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Irfan Saadat Khan

Mr. Justice Adnan-ul-Karim Memon

C.P No. D- 8102 of 2018

Petitioners: Through Mr. Muhammad Vawda, Advocate.

Respondents: Through Mr. Shahriyar Mehar, Assistant Advocate General Sindh a/w Mr. Karamuddin Junijo, Nazir and Syed Faheem Ahmed Siddiqui, Deputy Nazir of this Court.

Dates of hearing: 30.11.2018

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ORDER

It is, *inter-alia*, contended by Mr. Muhammad Vawda, learned counsel for the petitioners that he is confining his arguments to the extent that the petitioners may be allowed to submit their original documents pertaining to their respective plots in the respondent-society; that the petitioners have the right to participate in the election of the society being genuine allottee of their respective plots. He has further submitted that the outcome of the election will have direct impact on the petitioners, if they are not allowed to participate in the election, which is their basic right. He next added that the voter list of the respondent-society has already been amended from time to time, after disposal of C.P No.D-65/2015 but the learned Nazir has failed and neglected to call the original allottees / petitioners to participate in the election, which is violative of the

fundamental rights of the petitioners. He next added that the learned Nazir has prepared the final list of members of respondent-society without allowing the petitioners to be a part of the final list, which has caused unrest amongst the petitioners, compelling them to approach this Court for enforcement of their basic rights. He lastly prayed for notice and direction to the learned Nazir to allow the petitioners to present their genuine documents of their respective plots for scrutiny and if the same are found genuine, thereafter they may be allowed to contest the election, which is scheduled to be held on 02.12.2018.

We queried the learned counsel for the petitioners as to how this petition is maintainable, when the election schedule of the respondent-society has already been announced in compliance of the orders passed by this Court in the aforesaid petition. He in reply to the query has submitted that the petitioner's only anxiety is to participate in the election, being the owner of their respective plots and by virtue of that they are members of the society. Be that as it may, since we cannot determine the genuineness or otherwise of the documents placed on record by the petitioners and we leave it for the Nazir to scrutinize and verify the same in accordance with law.

To appreciate the above factum of the matter, let notice be issued to the respondents No.4&5 through all modes including publication for a date to be fixed by the office. In the meanwhile, we direct the Nazir of this Court

to scrutinize and verify the allotment letters of the petitioners, if they are found genuine and in order then the petitioners may be allowed to participate in the ensuing election of respondent-society strictly in accordance with law. Petitioners are directed to place on record the original allotment orders of their respective plots before the Nazir of this Court by tomorrow enabling him to comply with the directives of this Court as discussed supra. Nazir is directed to contact the Petitioners or their counsel for doing the needful in accordance with law. However, it is made clear that the aforesaid arrangement is temporary/interim, subject to all just exceptions as provided under the law.

Adjourned.

JUDGE

JUDGE