

Through Hybrid Mode

23.05.2026

Present: None for plaintiffs
Shri Akash Tiwari, Shri Shwet Singh,
Ld. Counsel for D-15 & D-16.
Shri Shubhansh Patel, Ld. Counsel for D-15 &
D-16 through VC.
Shri Kanishk Ahuja, Ld. Counsel for D-1 to D-14
and applicants (D-1 to D-11).

Arguments on pending application under Order XXXIX Rule 4 CPC read with Sec.151 CPC have already been heard. No clarification is required.

ORDER

1. Vide this order, the Court shall dispose of an application under Order XXXIX Rule 4 CPC read with Sec.151 CPC moved on behalf of defendant no.1 to 11 seeking modification of order dated 13.04.2026 of this Court vide which fresh election of '*Shiv Mandir Sanatan Dharam Sabha (Regd.)*' (hereinafter as 'Sabha') was ordered to be conducted through Court appointed receiver.

2. It is submitted that this Court vide order dated 13.04.2026 had permitted the eligible voters (all the members

whose membership amount stands deposited in the bank account of the Sabha till 17.01.2026) to participate in the election process to be undertaken by learned Court Receiver. It is stated that the bank account of the Sabha maintained with Canara Bank, bearing a/c no. *****5699, was frozen on account of ongoing litigation between the parties and the same was de-freezed only on 29.01.2026 pursuant to order dated 16.01.2026 passed in a case bearing CT case no.2094/2025. It is stated that after defendant no.1 to 11 were elected as office bearers of the Sabha pursuant to election dated 09.11.2025 (under challenge before this Court), 44 members were inducted as members of the Sabha with effect from 04.01.2026. Out of these 44 members, members at serial no.1 to 13 paid their membership fee in the month of September 2025 and were inducted after 09.11.2025. It is stated that at the same time, other residents of the locality falling within the eligible criteria of the Sabha were also issued receipts for their membership, however, bank account of the Sabha being frozen, cheques issued by such members could not be deposited.

It is stated that immediately after the account was de-freezed on 29.01.2026, the cheques of those members who had paid their membership amount prior to 17.01.2026 (the deadline fixed by the Court as per order dated 13.04.2026) were deposited with the concerned bank and the same got encashed on 30.01.2026 and 31.01.2026. It is stated that members from serial no.14 to 44 were issued receipts of payment of membership fee prior to 17.01.2026 and therefore, they are eligible to participate in the election process ordered by this Court. It is stated that no prejudice would be caused to the opposite party if these 44 members are

permitted to participate in the election process and therefore, order dated 13.04.2026 be modified to recognize these persons as eligible voters to participate in the election process.

3. *Per contra*, learned counsel for defendant no.15 & 16 vociferously submitted that the present application has been filed in gross abuse of the process of law with clear intention of derailing and delaying ongoing process of elections initiated by Court appointed Receiver. It is stated that applicants had approached the Court with unclean hands and suppressed material facts from the Court. It is stated that defendants/applicants could not have collected the alleged cheques from 44 individuals named in the list while the election dated 09.11.2025 of defendants/applicants as members of executive committee was under serious dispute and in fact, illegal. It is stated that applicants are seeking back door entry of the interested individuals in order to seek undue favour and majority in the election process being undertaken by the Court Receiver. It is the submission that applicants collected the ante-dated cheques from individuals mentioned in the list and issued them ante-dated receipts merely to wriggle out of their own oral undertaking before this Court on 17.01.2026 that during the pendency of present suit, no new member shall be inducted. It is stated that list of 44 members produced before this Court is false and fabricated wherein the applicants are attempting the inclusion of individuals who are not even the residents of the locality of the Sabha. It is argued that present application has been filed with clear purpose of disrupting the election process and no ground to allow the application is made out.

4. Submissions heard. Record perused. This Court has carefully perused the application, reply thereto and bunch of documents filed by each of the parties.

5. There has been no dispute to the submission of Ld. Counsel for applicants that the bank account of the Sabha maintained with Canara bank was frozen and ordered to be de-freezed vide order of concerned Ld. JMFC dated 16.01.2026. In order to substantiate the submission, applicants have also filed a letter dated 17.04.2026 issued by Manager, Canara bank, East Punjabi Bagh branch stating therein that account was freezed on 30.09.2025 as per letter dated 30.09.2025 given by authorized signatories of the Sabha and was de-freezed on 29.01.2026 in terms of Court order dated 16.01.2026. Further, as per the case of applicants, they were elected as members of executive committee of the Sabha vide election dated 09.11.2025, while defendant no.15 & 16 also called for an election process of the Sabha which was stalled by the order of concerned Ld. Civil Judge dated 26.12.2026. Later, defendant no.15 & 16 approached this Court (vide separate suit as plaintiffs) seeking declaration of election dated 09.11.2025 to be illegal, unlawful and void, and they were first heard on 17.01.2026. It was brought to the notice of this Court on 17.01.2026 that applicants had inducted some new members after assuming the charge of executive committee of the Sabha, however, on an objection raised by Ld. Counsel for defendant no.15 & 16, an oral undertaking was given by applicants/defendants that no new member shall be inducted after

17.01.2026.

6. It is the case of applicants that they issued receipts of payment of membership honorarium of Rs.51,000/- each to the person mentioned in the list Annexure-P3 to the present application prior to 17.01.2026. As per copy of receipts attached to the application, all the receipts are dated 04.01.2026 till 12.01.2026. Similarly, it is recorded in the list that the said individuals had issued/handed over cheque of Rs.51,000/- each in favour of the Sabha between 09.09.2025 till 12.01.2026. It is the case that cheques of individuals mentioned at serial no.14 to 44 could not be deposited due to bank account of the Sabha being frozen. Further, as per list, the said cheques were deposited immediately after the account was de-freezed and cheques got encashed on various dates with effect from 30.01.2026 to 16.03.2026.

7. After careful examination of documents attached to the application and reply thereto, this Court finds force in the argument of learned counsel for applicants/defendants that individuals who were issued receipts of payment prior to 17.01.2026 (after they handed over the cheques of payment) and whose cheques got encashed immediately after the bank account of the Sabha was de-freezed on 29.01.2026, are eligible to participate in the election process as voters.

As per list Annexure-P3 attached to the application, cheques of individuals from serial no.1 to 13 got encashed in September 2025 itself (although they were issued

receipts by the new executive committee in January 2026) and as such, there cannot be a dispute as to their eligibility to vote in the ongoing election process. As regards the individuals at serial no.14 to 44, this Court is of the opinion that all those persons whose cheques got encashed on 30.01.2026 and 31.01.2026, are eligible to participate in the election process. A bare perusal of list of these 31 individuals would provide that except four individuals at serial no.33 (namely Sumit Singhal), at serial no.37 (namely Anubhav Gupta), at serial no.38 (namely Mayank Gupta) and at serial no.39 (namely Ankur Gupta) whose cheques got encashed on 12.03.2026, 10.03.2026, 10.03.2026 and 16.03.2026 respectively should be given an opportunity to participate in the election process. In the opinion of this Court, the cheques of 27 new persons in the given list were deposited in the bank account of the Sabha without any delay after the account was de-freezed on 29.01.2026 and therefore, there does not appear any probability of embezzlement of record as regards the said persons. As regards 04 persons (Sumit Singhal, Anubhav Gupta, Mayank Gupta and Ankur Gupta), their cheques got encashed in the month of March 2026 and the probability of any falsity in their record cannot be ruled out. Further, permitting the individuals at serial no.1 to 13 (whose cheques got encashed prior to the disputed elections dated 09.11.2025) and other 27 members whose cheques got encashed on 30.01.2026 and 31.01.2026 would reduce the probability of any litigation to be initiated by such individuals against the Sabha.

8. In the light of above discussion, order dated 13.04.2026 stands modified to the extent that the persons

mentioned at serial no.1 to 13 of list Annexure-P3 and at serial no. 14 to 44 except at serial no.33, 37, 38 & 39 shall be eligible to participate in the ongoing election process by exercising their right to vote as they were not only issued receipts of payment prior to 17.01.2026 but their cheques of payment got encashed in the account of the Sabha without any undue delay.

In the opinion of this Court, inclusion of such persons as members/voters is well within the undertaking of Ld. Counsel for defendants/applicants before this Court on 17.01.2026. The application of defendants/applicants is **partly allowed** in aforesaid terms and disposed of accordingly.

9. Put up for further proceedings on date already fixed i.e., **29.05.2026**.

10. Copy of this order alongwith list Annexure-P3 be sent to learned Court Receiver for updating/finalizing the list of voters. The 'Stay' granted vide order dated 08.05.2026 stands vacated. It is clarified that learned Court Receiver may go ahead with the remaining ongoing election process in terms of order dated 13.04.2026.

(ARVIND BANSAL)
District Judge-05 (West District)
Tis Hazari Courts, Delhi/23.05.2026