

I-14

CS SCJ 97/26

**Pamposh Resident Welfare Association through its President
Sunil Jain Vs. Pamposh Enclave Resident Welfare Association
PERWA and Ors**

31.01.2026

Present: Sh. Vishnu Mehra, Sr. Standing Counsel, Sh.
Swarnendu, Ms. Varsha Sharma and Sh. Ali Abbas
Masoodi, Ld. Counsel for plaintiff.
Sh. Lokesh Bhardwaj (D-2757/2018), Sh. Shivam
Chauhan, and Sh. jatin, Ld. Counsel for defendant
no. 1 to 5.

1. As per office report, process issued upon
defendants, through ordinary mode received back served, on
29.01.2026. Process issued upon defendants, through speed post,
not received back.

2. Ld. Counsel for the defendants has filed application
under Order 7 Rule 10 CPC and an application under Order 7
Rule 11 CPC, along with his Vakalatnama, with advance copy to
the other side.

3. Ld. Sr. Counsel for plaintiff vehemently presses for
ad-interim injunction, till disposal of the application under Order
39 Rule 1 & 2 CPC. He stated that defendant no.2 to 4 had filed a
suit bearing no. 526/23, before Ld. SCJ, South-East District,

Saket, wherein plaintiff was defendant no. 2. In the said suit, vide order dated 06.05.2023 (hereinafter referred to as “*the order*”), plaintiff herein was restrained from calling any GBM or conducting elections for the governing body of plaintiff, till the next date of hearing. He stated that the interim stay granted by Ld. SCJ vide order dated 06.05.2023, is subsisting till date. In support of his submissions, he relied upon the decision of Hon’ble Supreme Court in *High Court BAR Association, Allahabad. Vs. State of Uttar Pradesh and Ors, 2024 6 SCC 267*.

4. He stated that defendants, in complete disregard of the order dated 06.05.2023(*supra*), has issued pamphlets stating that plaintiff has failed to hold elections, even though, there is no stay or injunction by any court. He stated that such statements made by defendants are in disregard of the court orders and are made to mis-lead the residents of Pamposh Enclave. Accordingly, he requests that the till the NDOH, defendants may be restrained from circulating any such pamphlet or communication.

5. Ld. Counsel for the defendants vehemently opposed the submissions put forth by Ld. Sr. Counsel for plaintiff. He stated that no injunction can be granted in favor of the plaintiff as they have failed to make out a prima facie case. He stated that the suit is liable to be dismissed on the following grounds: - (i) The reliefs claimed in the present suit are beyond the pecuniary jurisdiction of this court. Plaintiff has claimed damages of **Rs.**

50,00,000/-, which goes beyond the pecuniary jurisdiction of this court. (ii) The statement of truth filed in support of the plaint, is incomplete. The resolution passed by the Governing Body of Plaintiff, authorizing certain members to institute the present suit, is improper, as the Governing Body does not have the requisite number of members to pass any resolution. Further, Ld. counsel for the defendants seeks time to file reply to the aforesaid application. He further submits that, until the applications under Order 7 Rule 10 CPC and application under Order 7 Rule 11 CPC, are pending the application under Order 39 Rule 1 & 2 CPC, may be kept in abeyance.

6. At this stage, Ld. Sr. Counsel for plaintiff submits that plaintiff is ready to relinquish the claim of damages of Rs. 50,00,000/- and only claim damages of Rs. 3,00,000/-, to bring the suit within the pecuniary jurisdiction of this court. He further insisted that plaintiff may be granted ad-interim injunction, till disposal of the application under Order 39 Rule 1 & 2 CPC.

7. Statement of Ld. Counsel for plaintiff, to this effect has been recorded separately.

8. **Submissions heard. Record perused.**

9. Considering the statement of Ld. Counsel for plaintiff, **the relief of damages claimed in prayer clause (d) of the plaint, stands modified. Rs. 50,00,000/- claimed by plaintiff is**

being read as Rs. 3,00,000/-. Plaintiff is directed to amend the
plaint, in this regard and file the amended plaint, on or before the
NDOH, with advance copy to the other side.

10. Perusal of the record reveals that plaintiff has filed the present suit for declaration, permanent injunction and consequential reliefs.

11. Plaintiff (Pamposh Residents Welfare Association) is a society registered the Societies Registration Act, 1860. Defendant no. 1 (Pamposh Enclave Resident Welfare Association) is also a society registered under the Societies Registration Act, 1860. Defendant no. 2 to 5 are residents of Pamposh Enclave and office bearers of Defendant no. 1. Plaintiff claims that defendants are responsible for creating a Society i.e. Defendant no. 1 with a deceptively similar name. It is claimed that Defendant no. 2 to 5 want to constitute a parallel society and usurp the management of Pamposh Enclave. Hence, the present suit.

12. By way of the application under Order 39 Rule 1 & 2 CPC, plaintiff has sought for the following reliefs:-

A. Pass an ad-interim ex-parte temporary injunction, restraining the defendants, their agents, servants, representatives and all persons claiming through or under them, from:

B. Using the name “Pamposh Enclave Resident Welfare Association (PERWA)” or any other name which is identical, deceptively similar, or confusingly similar to the plaintiffs registered name

“Pamposh Residents Welfare Association (PRWA)”;
C. Circulating any pamphlets, notices, communications, or making any statements, whether oral or written, falsely claiming that there is no stay order on elections or making any other false, defamatory, or misleading statements regarding the plaintiff society;
D. Holding themselves out as office bearers, representatives, or members of any residents’ welfare association for Pamposh Enclave other than the plaintiff society (PRWA);
E. Conducting any activities, meetings, functions, or operations in the name of the parallel society “PERWA” or any other deceptively similar entity;
F. Interfering in any manner whatsoever with the functioning, administration, or activities of the plaintiff society;
G. Misrepresenting, distorting, or making false statements regarding the judicial orders passed by any court of competent jurisdiction in relation to the plaintiff society;

13. It is trite law that for seeking temporary injunction, plaintiff has to satisfy the three-fold test and prove existence of a prima facie case, balance of convenience and irreparable loss.

Prima Facie Case:-

14. Plaintiff has relied upon the order dated **06.05.2023**, passed by Ld. SCJ, South-East District, Saket to prove a prima facie case for grant of ad-interim injunction. He stated that the order restrains plaintiff from calling GBM or conducting elections for the plaintiff society. Defendants being aware of the said order have circulated announcements/pamphlets, to the residents of Pamposh Enclave, stating that no elections have been held in the society despite there being no court order or injunction that prevents holding of elections in the colony.

15. Perusal of the announcement depicts that defendant no. 1 has made the announcement/circular, in complete disregard of the order, dated **06.05.2023**, passed by Ld. SCJ, South-East District, Saket. It appears that such announcement has been made to mislead the residents of Pamposh Enclave. Thus, Plaintiff has proved assistance of a prima facie case, for seeking ad-interim injunction with respect to the relief claimed in prayer clause (C) and (G) of the application.

16. However, plaintiff has not been able to prove a prima-facie case for grant of ad-interim injunction with respect to the remaining reliefs claimed in the application.

17. The objections raised by Ld. Counsel for the defendants, regarding irregularities in the Statement of Truth filed by Plaintiff, cannot come in the way of doing substantive justice. It is trite law that procedural laws are hand-maiden of justice. Thus, plaintiff is directed to file a fresh Statement of Truth, as per law, on or before the NDOH, with advance copy to the other side. The aforementioned objection is dismissed.

Balance of Convenience:-

18. It is prima-facie evident that the contents of the announcement made by Defendant no. 1 are false and contrary to the directions issued by Ld. SCJ in the order. If defendants are enjoined from making such statements till the disposal of the application under Order 39 Rule 1 & 2 CPC, they are not going

to suffer a significant loss, compared to the loss being cause to the plaintiff, due to such statements. Thus, balance of convenience lies in favour of granting plaintiff ad-interim injunction, with respect to the reliefs claimed in prayer clause (C) and (G) of the application.

19. However, plaintiff has not been able to prove, why balance of convenience tilts in favour of granting it ad-interim injunction, with respect to the remaining reliefs claimed in the application.

Irreparable Loss: -

20. It is settled tenant of law, that reputation of a person/enity in invaluable right, the breach of which cannot always be compensated in monetary terms. Thus, irreparable loss might ensue upon the plaintiff, if defendants are no enjoined from making such statements, till disposal of the application under Order 39 Rule 1 & 2 CPC.

21. However, plaintiff has not been able to prove, how irreparable loss would be caused to it, if ad-interim injunction with respect to the remaining reliefs claimed in the application, is not granted.

22. **Thus, plaintiff is granted ad-interim injunction, with respect to the reliefs claimed in prayer clause (C) and (G) of the application, till disposal of the application under Order 39 Rule 1**

& 2 CPC, filed by plaintiff.

23. Defendants are hereby restrained from circulating any pamphlet, notice, communication or making any statement, orally or in writing, falsely claiming that there is no stay order on elections or making any other false or misleading statement, regarding the plaintiff society, till disposal of the application under Order 39 Rule 1 & 2 CPC, filed by plaintiff.

24. Defendants are also restrained from misrepresenting, distorting or making false statements regarding the judicial orders passed by any court, in relation to plaintiff society, till disposal of the application under Order 39 Rule 1 & 2 CPC, filed by plaintiff.

25. The observations recorded hereinabove, are not observations on merits of the case.

26. Defendants are at liberty to file reply to the application under Order 39 Rule 1 & 2 CPC, on or before the NDOH, with advance copy to the other side.

27. Plaintiff is at liberty to file reply to the application under Order 7 Rule 10 CPC and application under Order 7 Rule 11 CPC, filed by defendants, on or before the NDOH, with advance copy to the other side.

28. Put up for consideration under Order 7 Rule 10 CPC
and application under Order 7 Rule 11 CPC, on **18.03.2026**.

(Yashu Khurana)
Civil Judge-01, South East
District, Saket, New Delhi,
31.01.2026