

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

C.O. 3065 of 2026

Shri Rabi Sankar Sengupta & Ors.

Versus

Baghbazar Sarbojanin Durgotsav and Exhibition & Ors.

For the Petitioners	: Mr. Aniruddha Chatterjee, Sr. Adv. Mr. Srijib Chakraborty, Ms. Pallavi Ray, Mr. Ashutosh Singh, Ms. Chandrika Sharma advocates
For the Opposite Party no. 6	: Mr. Saptanshu Basu, Sr. Adv. Mr. Sakya Sen, Sr. Adv., Mr. Soumik Ganguli, Ms. Sormi Dutta ...advocates
Reserved on	: 10.09.2026
Judgment on	: 15.09.2026

Hiranmay Bhattacharyya, J.:-

1. This application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against an order being no. 16 dated 03.09.2026 passed by the learned Judge, Xth Bench, City Civil Court at Calcutta in Title Suit No. 1468 of 2025.

2. By the order impugned, the application filed by the 6th defendant was disposed of by directing the President to hold a meeting in the light of the provisions of Rule 37 of the Rules and Regulations of the Society.
3. Petitioners filed a suit for declaration that the elections of the Managing Committee of Baghbazar Sarbojanin Durgotsav and Exhibition (hereinafter referred to as “the society”) held on 22.06.2025 are null and void; for declaration that the decisions and/or actions undertaken by the Managing Committee constituted on the basis of elections held on 22.06.2025 are null and void; for appointment of an Administrator, and for mandatory injunction restraining the defendant no. 5 and 6 from taking any decision and/or acting as Secretary and President respectively of the said society.
4. Petitioners filed an application under Section 151 of the Code of Civil Procedure before the learned trial judge challenging the notice calling for an Extraordinary meeting of the General Council which was scheduled to be conducted on 26.07.2026.
5. Upon a contested hearing, the learned trial judge passed an order on 24.07.2026 appointing two senior members of the City Civil Court Bar Association as Special Officers for overseeing and conducting the entire process of holding Annual General Meeting of the General Council of the society.
6. The Joint Special Officers vide notice dated 06.08.2026 called for Annual General Meeting (for short “AGM”) of the General Council of the society to be held on 30.08.2026 at the registered office of the society. Agenda no. 4 relates to election of Honorary General Secretary, Honorary Treasurer and twelve other members of the Managing Committee for the year 2026-2027.
7. Out of 28 members who have submitted their nominations, two members contested for the post of Honorary General Secretary, two members contested for the post of Honorary Treasurer and the rest 24 members submitted their nominations for the post of Managing Committee members.

8. The results of the election conducted in the AGM of the General Council of the society was declared on 30.08.2026.
9. After the results were declared it was detected that-
 - (i) There has been a tie for the post of Honorary Secretary as both the candidates have obtained 33 votes each; and
 - (ii) There has been a tie for 4 posts of members of the Managing Committee as 6 candidates obtained 32 votes each.
10. The Joint Special Officers submitted their Report before the learned trial judge on 02.09.2026.
11. The 6th defendant/opposite party no. 6 herein filed an application on 02.09.2026 under Section 151 of the Code praying for an order directing the learned Special Officers to convene the meeting enabling the Chairman of the society to issue a casting vote in addition to his own vote as per Rule 37 of the Rules and Regulations of the society for bringing the matter to a conclusive solution.
12. The aforesaid application was disposed of by the impugned order. Being aggrieved, the plaintiffs have approached this Court.
13. Mr. Chatterjee, learned Senior Advocate for the petitioner referred to Rule 37 and contended that the said Rule enables the Chairman to give only one casting vote as the letter “a” precedes the expression “casting vote”. He further contended that in the instant case there has been a tie in 5 posts and such an impasse cannot be resolved by taking aid of Rule 37. He submitted that at best the Chairman would have the power to resolve the tie for only one post and for the other posts, Rule 37 could not have been invoked. In support of his contention that the Chairman could not give his casting vote as he himself participated in the election, Mr. Chatterjee placed reliance upon the decision of the Hon’ble Gujarat High Court in the case of **Balwantrai Bhimbhai Desai vs. Taluka Panchayat, Kamraj and others** reported at **AIR 1979 Guj 220**. Mr. Chatterjee contended that when the fact

that there was a tie in 5 posts was placed before the learned trial judge, before deciding the issue as to whether Rule 37 could be invoked to resolve such a dispute, the learned trial judge ought not to have directed the President to hold a meeting in the light of the provisions of Rule 37.

14. Mr. Sen learned Senior Counsel for the opposite parties seriously disputed the submission of Mr. Chatterjee. He contended that before the learned trial judge, the petitioner did not agitate the point that the President (Chairman) could not give 5 casting votes to resolve the tie in the said 5 posts. Mr. Sen contended that the expression “Every question” used in Rule 37 implies that the Chairman has the right to give casting votes in respect of every question where there is a tie. He submitted that after the impugned order was passed on 03.09.2026, a meeting was held on 07.09.2026 pursuant to a notice dated 05.09.2026 and in the said meeting the Honorary General Secretary and 4 members of the Managing Committee were elected on the casting vote by the President.
15. Heard the learned advocates for the parties and perused the materials placed.
16. The AGM of the General Council of the society was held under the supervision of the Joint Special Officers appointed by the learned trial Judge. The Joint Special Officers also conducted the election to the post of Honorary General Secretary, Honorary Treasurer and 12 other members of the Managing Committee for the year 2026-2027 on 30.08.2026. It is not in dispute that two candidates who contested the election for the post of Honorary Secretary secured equal number of votes i.e., 33 votes each. It is also not in dispute that six candidates secured equal number of votes for the 4 posts of the members of the Managing Committee.
17. After going through the impugned order this Court finds that the principal objection against allowing the 6th defendant to give casting vote is that he belongs to a particular group and allowing the 6th defendant/President to

give a casting vote would act in detriment to a free and fair election for the constitution of the new committee of the organization.

18. The learned Trial Judge took note of Rule 53 and observed that the said Rule prescribes the eligibility criteria to be fulfilled by a member of General Council being the central body of organization to contest the election. The learned Trial Judge rightly noted that Rule 37 comes into play if there is a deadlock or a stalemate to select the winning candidate for any post as mentioned in Rule 53 on account of equality of votes.
19. The learned Trial Judge noted that the President (Chairman) already got himself elected as a member and he is not a contesting candidate for the posts where there is equality of votes.
20. The learned Trial Judge further observed that election of the President negates any scope to draw a conclusion that any interest will flow in for the President to resolve the crisis by fulfilling his desired objective.
21. There is no quarrel to the legal maxim that no one can give judgment for himself. Thus, before deciding the issue whether the Chairman can give a casting vote, it is to be seen whether such casting vote would ultimately result in the Chairman becoming a judge in his own cause.
22. In the case on hand, it is not in dispute that the President (Chairman) has already been elected to a particular post and he is not a contestant in any of the posts where there has been an equality of votes. No rule has been produced before this Court to show that the President (Chairman) is disqualified from exercising powers under Rule 37.
23. To the mind of this Court, the President can exercise his powers under Rule 37 to give a casting vote.
24. In **Balwantrao Bhimbhai Desai** (supra) the issue that fell for consideration was whether the Presiding Officer of a local authority who is himself a candidate for election to one of the statutory committees can preside over

the meeting at which the election is held and giving a casting vote in case of equality of votes and thereby secure his own election.

25. In the said reported decision there was a tie on account of equality of votes and the President who was himself a candidate resolved the deadlock by giving his second or casting vote. On such fact it was held that it is against all canons of justice for a man to be a judge in his own cause. The said decision being distinguishable on facts cannot come to the aid of the petitioner.
26. After going through the impugned order this Court finds that the argument advanced by Mr. Chatterjee before this Court that before deciding as to whether Rule 37 could have been invoked to resolve the impasse in respect of 5 posts, the President could not have been directed to hold a meeting in the light of Rule 37 was not urged before the trial judge.
27. Mr. Sen, learned Senior Advocate vehemently contended that since the said argument was not advanced before the learned Trial Judge this Court should not allow the petitioner to raise such issue at this stage.
28. This Court finds that the learned trial Judge only directed the President to hold a meeting in the light of the provisions of Rule 37 and the newly elected members of the Managing Committee were directed to ensure their presence in the meeting.
29. The manner in which such power should be exercised has not been decided by the learned trial Judge in the order impugned.
30. If an issue is not decided as the same was not raised before the Court of first instance, the parties should be relegated to that Court and this Court should refrain from deciding such issue for the first time under Article 227 of the Constitution of India under normal circumstances. However, this Court is inclined to take a different view in the instant case for the reasons as stated hereinafter.

31. The fact that there is equality of votes in 5 posts is not in dispute. The power of the Chairman to give casting votes as per Rule 37 is not in issue. The manner in which such power is to be exercised is a matter of interpretation of a particular Rule which is a point of law. The learned Senior Counsels for the respective parties have made elaborate submissions on the issue whether Rule 37 could have been resorted to for resolving the present impasse or not.
32. Only for the reasons as stated hereinbefore, this Court deems it appropriate to decide the issue whether Rule 37 can come into play for resolving the impasse which has arisen on account of equality of votes in more than one posts under Article 227 of the Constitution of India.
33. The issue that falls for consideration in this application under Article 227 of the Constitution of India is whether the Chairman can give casting votes under Rule 37 to resolve the present impasse in respect of the aforesaid 5 posts i.e., one post of the Honorary Secretary and 4 posts of the members of the Managing Committee.
34. The word “vote” is defined in Black’s Law Dictionary, 10th Edition to mean the expression of one’s preference or opinion in a meeting or election by ballot, show of hands or other type of communication.
35. The expression “casting vote” is defined in the said dictionary to mean a deciding vote caused by the chair of a deliberative assembly when the votes are tied.
36. Rule 37 of the Rules and Regulation of the society as amended would be relevant for the purpose of deciding the aforesaid issue for which the same is extracted hereinafter.

“37. Every question submitted to a meeting shall be decided by a show of hands or in such manner as the chairman of the meeting shall determine. Every member present shall have one vote and in case of equality of votes the chairman shall have a casting vote in addition to the vote to which he may be entitled as a member.”

37. Rule 37 states that every member shall have one vote and in case of equality of votes the Chairman shall have a casting vote in addition to the vote which he may be entitled as a member.
38. Thus, a Chairman shall have one vote as a member and only in case of equality of votes he shall have a casting vote in addition to that which he is entitled to as a member.
39. In the case on hand, the elections were held for one post of Honorary Secretary, one post of Honorary Treasurer and 12 posts of members of the managing committee i.e., in total 14 posts. Thus, each member present in the meeting shall have one vote for each of the aforesaid posts. A Chairman would also be entitled to one vote as a member for each of the aforesaid 14 posts. However, in case of equality of votes in respect of a particular post, the Chairman shall have a casting vote in addition to the vote he may have casted as a member to elect a candidate for a particular post.
40. The expression “in addition to” used in Rule 37 after the expression “ casting vote” is very much relevant for the purpose of interpreting Rule 37. Like any other members present at the AGM, who shall have one vote to elect a candidate for a post, the Chairman shall also be entitled to one vote for electing a candidate to a particular post. However, only in case of equality of votes that the Chairman shall have a casting vote in addition to that he is entitled to as a member.
41. Every member has a right to cast one vote for a post and the total number of votes that every member shall have in an election will depend upon the total number of posts for which election is held. Thus, in a case where the total number of posts for which an election is held is 14, every member present shall have one vote for each of the 14 posts. Similarly, the Chairman will also be entitled to one vote as a member in each of the 14 posts. In case there is no equality of votes in any of the posts, the Chairman would be entitled to only one vote as a member. However, only in case of equality of votes the question of casting vote by the Chairman shall arise. The

expression “one vote” used in Rule 37 implies that every member shall have one vote per post. Thus, the expression “in addition to” would imply an additional vote i.e., casting vote by the Chairman in case of equality of votes in respect of a post.

42. In the case on hand, there has been equality of votes in one post of Honorary Secretary and 4 posts of the members of the Managing Committee.
43. In respect of the said 5 posts every member including the Chairman shall have one vote for each of the 5 posts. Since there has been equality of votes in respect of the said 5 posts, this Court holds that the Chairman shall have a casting vote in addition to one vote as a member in respect of each of the 5 posts. In other words, the Chairman of the society shall have a casting vote in respect of one post of the Honorary Secretary and one casting vote for each of the 4 posts of members of the Managing Committee.
44. In view of the aforesaid discussion this Court is not inclined to accept the contention of Mr. Chatterjee learned Senior Advocate for the petitioner that even if there is equality of votes in more than one posts, the Chairman shall have only one casting vote meaning thereby that he can give a casting vote only to resolve the impasse relating to one of the 5 posts and cannot resolve the impasse as a whole.
45. The object behind Rule 37 is to resolve a stalemate situation or a deadlock due to equality of votes in order to take the election to its logical end by way of filling up the posts.
46. The interpretation of Rule 37 made by this Court would be in furtherance of the aforesaid object and any contrary interpretation would frustrate the object of Rule 37.
47. In view of the aforesaid discussion, this Court holds that Rule 37 can come into play to resolve an impasse or a stalemate condition arising out of equality of votes in more than one post.
48. The aforesaid issue is decided in the affirmative and against the petitioner.

49. The learned trial Judge was right in directing the President to hold a meeting in the light of the provisions of Rule 37 with a direction upon the newly elected members of the managing committee to ensure their presence in the meeting. The impugned order does not suffer from infirmity.
50. Accordingly C.O. No. 3065 of 2026 stands dismissed without, however, any order as to costs.
51. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)