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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CS(OS) 3353/2015 & I.A. Nos.23633/2015, 23672-73/2015

MR NAVNEET AGARWAL Plaintiff
Through Mr.Joseph Koshy, Adv. with
Ms.Sheetal Srivastava, Adv.

versus

TOURNAMENT COMMITTEE & ORS Defendants
Through Mr.Amir Singh Pasrich, Adv. with
Ms.Vinita Chhatwal, Adv.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER

% **11.01.2016**

The plaintiff has filed the suit for declaration and permanent injunction seeking a decree of declaration in favour of the plaintiff against defendant No.1 that the ban imposed upon the plaintiff be vitiated and the same be struck down on account of it being improper and unfair and based on illegality and also restrain defendant No.1 from invoking the suspension of the plaintiff without due process and authority. Suit and interim application were listed on 6th November, 2015. The following order was passed which is reads as under:-

"The plaintiff has filed the suit for declaration and permanent injunction. The valuation of the suit originally was fixed at Rs.25.05 lacs. Learned Senior counsel appearing on behalf of the plaintiff submits that when pointed out about the pecuniary jurisdiction of this Court, he filed an application under Order VI Rule 17 CPC for amendment. He further submits that the District Court is not accepting the case for the valuation of more than Rs.20 lacs and at the same time, the original side Courts are not hearing any matter, the valuation of which are less than Rs.2 crores. He submits that under these circumstances, the plaintiff, who is remediless, is

seeking ad-interim injunction in view of the urgency of the case.

The amendment application is filed today itself. I have gone through the same. The prayer is allowed. The Court fee be deposited by the plaintiff within one week from today. I.A. Nos.23672/2015 and 23673/2015 are accordingly disposed of.

The grievance of the plaintiff is that on 31st October, 2015, semi-final match was played between Action Polo team and Royal Punjab which was umpired by Mr.Uday Kalaan and Mr.Bhawani Singh Kalvi and the Referee was Mr.Jai Shergill. Suddenly, during the third chukker of the match, umpires without any valid reason asked the plaintiff to sit out from the match, on the basis of his personal grudge imposed by them upon the plaintiff and his team. The plaintiff objected to the said unfair action or attitude. There was an argument between the plaintiff and the Umpire on the imposition of the foul. However, the same does not call for suspension without even a warning. The said conduct of the Umpire, Bhawani Singh was unfair and even the Tournament Committee had not considered the unfair act of the said Umpire and had neither bothered to seek any clarification from him with respect to his actions. It is further averred that on the same day, i.e. 31st October, 2015 at 9.07 p.m., the Tournament Committee informed the plaintiff by e-mail that his behaviour towards the Umpire was unbecoming of a gentleman and Committee has taken a serious cognizance of the matter. Further, on 1st November, 2015 at 8.14 p.m., another e-mail was received by the plaintiff from defendant No.1 through its Secretary whereby the plaintiff was suspended from playing in the next two tournaments starting from 2nd November, 2015 to 15th November, 2015 of the Delhi Fall Polo Season. It is the case of the plaintiff that this whole exercise was done without any written complaint and even without any right. As per Rules and Regulations under the provisions as provided for under the penalty Section of the Indian Polo Association Rules, the power of suspension has only been vested with the Indian Polo Association. Copies of the e-mails have been placed on the record.

Learned Senior counsel appearing on behalf of the plaintiff states that the said decision was a one-side decision and against the well-settled principles of fair play and natural justice. Even, the decision was taken in hours from the event

having taken place which clearly goes to show the desperation and pre-meditated action on the part of the defendants. Learned Senior counsel has pointed out Clause 5(f) of the Rules & Regulations (General Rules) of Indian Polo Association which is reproduced here as under:-

"5. UMPIRES, REFEREES AND OTHER OFFICIALS

(f) The umpires' authority begins when the umpires take to the field and ends when they leave the field and it shall include recommending to the IPA, suspension of a player whose conduct is not in the best interest of the sport. The Umpire shall have the power to impose a fine (the amount not to exceed Rs. 500/-) payable to the IPA on any team or member of a team failing to appear within a reasonable time of the scheduled starting time of the game or for any misconduct on the field such as a disrespectful attitude towards the Umpire or other players, or for a violation of the Rules during the progress of a game, and shall report the same in writing to the appropriate IPA officials for enforcement. All issues that are disputed can be submitted by the captains of the teams in writing within 6 hours of the end of the match to the organising committee of the tournament or match and its decision will be final."

Let the plaint be registered as a suit.

Issue summons in the suit and notice in the interim application to the defendants, on filing of process fee and Regd. A.D. Covers within a week, returnable on 14th December, 2015.

In the meanwhile, in view of the averments made in the plaint and the documents placed on the record, it is directed that defendant No.1 shall allow the plaintiff to play in the next tournament starting from 9th November, 2015 of the Maharaja Hari Singh Memorial".

Learned counsel for the defendants states that the suit has become infructuous as the plaintiff did not play despite of the orders passed in favour of the plaintiff. As far as the other reliefs are concerned, he submits that defendant No.1 has earlier followed the due process for denying the plaintiff to play the tournament which

was held on 9th November, 2015 and even in future due process has to be followed if any such action is taken. In view of the said assurance given by defendant No.1, nothing survives in the present suit.

Learned counsel for the plaintiff requests for refund of half of the Court fee as the matter has been disposed of at the initial stage. In view of the above, the plaintiff is entitled for refund of half of the Court fee amount under Section 16A of the Court-fees Act, 1870. Accordingly, the Registry is directed to issue requisite certificate to the plaintiff through counsel, for refund of half the amount of the Court fee from the Collector, within ten weeks from today.

Pending applications, if any, are disposed of.

Copy of this order be given *Dasti* to the learned counsel for the parties.

MANMOHAN SINGH, J.

JANUARY 11, 2016/vp