

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.5125 of 2017

Date of Decision: 04.08.2017

Haryana State Kho-Kho Association

...Petitioner(s)

Versus

Kho Kho Federation of India

...Respondent(s)

CORAM:-HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Jai Parkash Dhull, Advocate
for the petitioner.

ANITA CHAUDHRY, J.

The petitioner has challenged the order dated 31.07.2017 passed by learned Civil Judge (Sr. Division) Kaithal.

The petitioner was asked to place on record the copy of the plaint. It has been placed on record today.

I have heard learned counsel for the petitioner at length and I find no merit in the petition. A suit for permanent injunction was filed in 2006 which was partly decreed. The respondents were restrained from preventing the team of the plaintiff-association from participating in the Championship which were to be organized under the banner of defendant No.1, forcibly or illegally.

An execution was filed by the plaintiff. The petitioner moved an application seeking implementation of the order dated 23.04.2010, the prayer made therein was for directions to the returning officer of the Kho-Kho Federation i.e. J.D., that the decree holder be allowed to participate in the election which were to be held

on 06.08.2017 at Uttarakhand.

The Executing Court noted the following:-

“Now resuming to facts of instant matter it remained un rebutted that the plaintiff-association vide civil suit bearing No.74 of 22.02.2006 titled as 'Haryana State Kho-Kho Association Vs. Kho-Kho Federation of India & another' have successfully sought to restrain the defendants/federation from disallowing them from participating in the 42nd Senior National Kho-Kho Championship 2006 or in any championship to be organise under the banner of the defendants federation or its supervision vide judicial order dated 23.04.2010 unequivocally restraining 'the judgment debtors from illegally preventing the teams of the plaintiff association from participating in any championship to be organise under the banner of the defendants federation or its supervision', consequently the ambit of the judicial order dated 23.04.2010 is limited only qua participation in championship/games and patently by no stretch of imagination qua elections, thus the relief sought by virtue of the instant application is neither discernible in the terms of the decree nor can be allowed on the notion of fairness or justice.”

The suit had been filed by the plaintiff in 2006 as the defendants were not allowing them to participate in the Kho-Kho Championship which were to be held in 2006 in the State of Maharashtra, it is with that prayer the suit was filed. The factual position was admitted by respondent No.1 and was contested by respondent No.2 and after contest, the suit was partly decreed. The plaintiffs were allowed to participate in the championship and the defendants were restrained from illegally preventing them from

participating in the games. The Court also noted that the Championship of 2006 was already over, therefore, that relief had become infructuous. Issue No.1 was partly decided in favour of the plaintiff and the following order was passed:

“In view of foregoing discussion, the suit of the plaintiff is partly decreed and the defendants No.1 and 2 are restrained from illegally preventing the teams of the plaintiff association from participating in any championship to be organised under the banner of defendant No.1 federation or under the supervision of defendant No.2 illegally and forcibly. Decree-sheet be drawn accordingly and file be consigned to the record-room after due compliance.”

The above would show that there was no pleading with respect to the election nor any decree was passed in their favour and the arguments being presented by the petitioner, are totally misplaced. If they had any grievance, they had a separate cause of action and should have filed a suit instead. The objections before the Executing Court were not maintainable.

With the above observations, the petition is dismissed.

August 04, 2017
ps-l

(ANITA CHAUDHRY)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No