

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER (ST.) NO. 9855 OF 2018
WITH
CIVIL APPLICATION (ST.) NO. 9856 OF 2018**

Mohamed Wasim Samsulhaq Chodhry V/s. Dock's Local Transporter's & Lorry Owner's Association & Ors.	...	Appellant Respondents
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- Mr.Ashutosh S. Khandeparkar for the Appellant.
- Mr.S.K. Dubey for Respondent Nos.1, 2, 4 & 6.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 28th MARCH, 2018.

P.C. :

1] Not on board. Upon mentioning taken on production board.

2] Heard learned counsel for the Appellant and learned counsel for Respondent Nos.1, 2, 4 & 6.

3] By this Appeal from Order, filed under Article 227 of the Constitution of India, the Appellant is challenging the order dated 21st March 2018 passed by the City Civil Court, Mumbai, thereby refusing the ad-interim relief to the Appellant in his draft Notice of Motion filed in S.C. Suit No. 792 of 2018.

4] By the said Notice of Motion, the Appellant is praying for temporary injunction to stay the Elections of Managing Committee Members of the Respondent No.1, which are scheduled on 31st March 2018 and for appointment of Court Receiver.

5] As regards the appointment of Court Receiver, the impugned order passed by the trial Court shows that, learned counsel for the Appellant had not made any submission as regards the said prayer and therefore, the relief which stands restricted is, only as regards that of temporary injunction to stay the Elections of Managing Committee Members.

6] The sole ground on which the stay is sought to the Election of Managing Committee Members is that the Respondents are indulging into the financial fraud and therefore, the Appellant has already approached the Industrial Court and the proceedings for de-recognition of the said Trade Union are in process. It is urged that, if the Elections are allowed to be continued, then it would be as good as giving stamp of approval to such financial fraud. It is further submitted that the matter is kept for hearing before the Industrial Court on this aspect and till then the Respondents should not be permitted to hold the Elections.

7] However, as rightly held by trial Court, once Elections are declared by Circular dated 12th February 2018, then it would not be either for the trial Court or this Court also to stop the said Elections, when no illegality or irregularity is pointed out. As regards de-recognition of the Trade Union of the Respondent, that issue is under consideration before the Industrial Court. Moreover, the Industrial Court has already granted stay to the de-recognition.

8] Hence, this Court cannot proceed on assumption and presumption that, the Respondents are indulging in the financial fraud by collecting the contributions and therefore, they should be stopped from holding such Elections or participating therein. The trial Court has thus rightly rejected the ad-interim relief, as sought by the Appellant. Hence, no interference is warranted in the impugned order passed by the trial Court.

9] Appeal from Order therefore being without merits, stands dismissed.

10] In view of dismissal of Appeal from Order, nothing survives in the Civil Application and hence, it stands disposed of.