

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

**APPEAL FROM ORDER (ST.) NO.36741 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 36742 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 36741 OF 2017**

Mr.Sujit Chavan

...Appellant

Versus

MIG Cricket Club
through its General Secretary
Mr.Nikunj Vyas

...Respondent

.....

Mr. D. Nalawade i/b. Ms. Jyoti Chavan for the Appellant.
Mr.A.J. Dholakia i/b. Ms.Neeta Dholakia for the Respondent.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: JANUARY 04, 2018**

P.C. :

1. Admit. By consent of the parties, Appeal from Order is heard finally and decided at the stage of admission.

2. This Appeal is directed against the order dated 21st December, 2017 passed by the learned Judge, City Civil Court, Dindoshi, Mumbai in Draft Notice of Motion in S.C.Suit No. 3630 of 2017 thereby refusing the ad-interim relief.

3. The appellant/plaintiff has challenged the action taken by the respondent-Club of suspending his membership for a period of 60 days i.e from 8th December, 2017 till 5th February, 2018. The object of the Club is to promote the sports activities.

4. Heard submissions. Perused the impugned order and the documents relied upon by both the parties. The suspension of a member should be as per clause No. 2.11 of the Constitution of the Club. The appellant is suspended under clause No. 2.11.1 (b) of the Constitution of Club for committing breach of the rules of the Club. On perusal of the record, correspondence and minutes of the meetings dated 15th November, 2017 and 7th December 2017, it is found that the opportunity to explain is contemplated under clause No. 2.11.2 of the Constitution of Club, which *prima-facie* is not followed by the respondent-Club.

5. The submissions of the learned Counsel for the respondent-Club that the subject mentioned at serial no.5 in Agenda dated 28th November, 2017 for the meeting of 5th December, 2017 is to be treated as a notice, are not convincing. The subject in Agenda can not be a substitute for notice, as opportunity to give written

explanation is specifically mentioned in clause No. 2.11.2 of the Constitution of the Club. It is expected that the respondent-Club should follow the principle of natural justice. The learned Judge of the trial Court has not considered this aspect. Hence, I set aside the order of the learned Judge of the trial Court and granted ad-interim relief in favour of the appellant/plaintiff. The respondent-Club is hereby restrained from taking steps against the appellant/plaintiff pursuant to the letter dated 8th December, 2017 and the minutes of meeting dated 7th December, 2017. The trial Court may endeavour to hear and to dispose of the Notice of Motion.

6. The learned Counsel for the respondent-Club submits that the respondent-Club may be granted liberty to issue fresh notice to the appellant and also an opportunity be given to call for the written explanation from the appellant, as contemplated under clause 2.11 of the Constitution of the Club.

7. In view of the above and considering the nature of the dispute, liberty is granted. Earlier action taken by the respondent-Club shall not come in the way, if fresh action is taken.

8. I am of the view that the subject matter is to be sorted out by mediation.

9. With the aforesaid directions, Appeal from Order is disposed of.

10. In view of the above, Civil Application is also accordingly disposed of.

(MRIDULA BHATKAR, J.)