

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO.702 OF 2019
WITH
CIVIL APPLICATION NO.836 OF 2019**

Computer Society of India (CIS)	...	Appellant
Versus		
Shri Gautam Mahapatra		
And Others	...	Respondents

.....
Mr. Shriram S. Kulkarni i/b Ms. Minal V. Chavan for the Appellant.
Mr. Atharva Dandekar for Respondent No.1.

CORAM : S.C. GUPTE, J.

DATE : 20 SEPTEMBER 2019

P. C. :

. This Appeal from Order challenges an order passed by the City Civil Court, Borivali Division at Dindoshi on a notice of motion taken out by the Appellant (original plaintiff).

2 The plaintiff is a registered society having scientific and educational objects, particularly, covering computer science and computer engineering. Its affairs are governed by bye laws. So far as the present suit is concerned, the plaintiff is being represented by its immediate past President, Sanjay Mohapatra. Defendant No.1 was the immediate past Vice President of the society, whilst Defendant No.2 was the immediate past Treasurer of the society. Defendant

No.4 has been arraigned for conducting the society's elections through e-voting. The controversy concerns the election of office bearers of the society.

3 Broadly, the management of the society is through its office bearers, namely, President and Vice President. The tenure of the office bearers is for one financial year. The General Body is required to elect a Vice President through a nomination committee. The Vice President elected for the year is the President elect for the following year and holds the office of the President by virtue of his election as Vice President for the preceding year. The immediate grievance, which prompted the plaintiff to file the present suit, was that after defendant no.1 took charge as Vice President of the society, due to some procedural difficulties, the nomination committee could not be appointed within time. In the premises, Special General Body and Executive Committee of the society purportedly took a decision for substitution of the regular nomination committee by an ad-hoc committee and to conduct elections of the society through such committee. The appointment of ad-hoc nomination committee and conduct of elections through such committee by e-voting were the subject matters of challenge in the present suit. Ad-interim relief in relation to conducting of elections through this ad-hoc committee was refused to the plaintiff. That order was carried in appeal. This court, by its order dated 30 July 2018, allowed the plaintiff society to go ahead with its own rival election schedule and thereafter even declare the results of the elections. On the other hand, so far as defendant

no.1 was concerned, he was permitted to complete his proposed election process through e-voting, but subject to the condition that the results of such election would not be declared till further orders. This effectively operated as an ad-interim relief in favour of the plaintiff. On 20 February 2019, whilst this court dismissed the plaintiff's appeal, the order of 30 July 2018 was nevertheless extended till the disposal of the notice of motion. In other words, the effect of dismissal of the appeal was to nevertheless grant ad-interim protection to the plaintiff, which it had sought before the trial court and which was denied and from which denial it had come in its unsuccessful appeal before this court. Be that as it may, the results of the elections conducted by defendant no.1 through e-voting were put on hold all this while and till date, whilst the elections held by the plaintiff not only went through and the new committee and office bearers came to be appointed, but these office bearers have carried on the affairs of the plaintiff society and thereafter even conducted fresh elections and a new executive committee and a new team of office bearers have now taken charge of the affairs of the plaintiff society. In the meantime, the hearing of the notice of motion went on before the trial court. The trial court was of the view that the plaintiff did not make out any *prima facie* case and dismissed its notice of motion.

4 In the backdrop of these facts, it is a no-brainer that there is hardly any purpose in entertaining the present appeal. Not only the present appeal, but the suit itself has become infructuous on account of the fact that there was an interim relief in favour of the plaintiff

throughout, as as result of which, the management of the plaintiff society has changed hands twice. An altogether new committee, which has come about as of now, has been managing the affairs of the society. Not only the plaintiff's suit, but even the conduct of elections by defendant no.1 and declaration of results of these elections, which alone is the subject matter of the present suit, has lost all its significance, for the particular year, for which the elections were held by defendant no.1, has gone by. During that period, the committee and office bearers appointed by the plaintiff have carried on affairs of the society. Even that period has come to an end and after the end of that period, new elections have been held and a new committee and office bearers are in place. So far as the plaintiff is concerned, the purpose of its suit was to secure a perpetual injunction against defendant no.1 from conducting elections through e-voting. Defendant no.1 is no longer incharge of the management of the plaintiff society and even that relief claimed against him has no significance as of now. So also, so far as defendant no.1 is concerned, there is hardly any meaning now left in declaring the results of the elections conducted, since the period for which these elections were conducted has gone by and a new committee and office bearers for a new period is in place.

5 After this is pointed out, learned Counsel for the Appellant (original plaintiff) accepts that the suit has become infructuous. Learned Counsel submits that in the premises, he does not press his suit.

6 The Appeal and the suit are, accordingly, disposed of as not pressed. It is, however, clarified that legal issues concerning the matter, particularly concerning interpretation of the bye laws of the plaintiff society in the matter of conduct of elections, are kept open. That, of course, with a fond hope that the parties do not have any occasion to agitate them in future.

7. Either party may bring this order to the notice of the trial court and seek a formal disposal order.

(S.C. GUPTE, J.)