

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.394 OF 2022
WITH
INTERIM APPLICATION NO. 1365 OF 2022
IN
APPEAL FROM ORDER NO. 394 OF 2022

Cine Costume Make Up Artist and Anr .. Appellants

Versus

Sharad Shelar President of Cine Costume .. Respondent

...

Mr. Ashok D. Shetty with C.G. Jadhav for the appellants.
Mr.A.V. Bukhari with Rakesh Sawant, B.V. Bukhari, Fauziya
Bukhari i/b A.S. Peerzada for respondent nos.1 to 11, 13 to 15.

CORAM: BHARATI DANGRE, J.

DATED : 25th APRIL, 2022

P.C:-

1 By the present Appeal, the challenge is raised to an order passed on 20/1/2020 on a Notice of Motion No.1647/2019, filed in S.C. Suit No.1045/2019, filed by the plaintiff.

Perusal of the proceedings in the Suit would clearly disclose that there is a prevailing discord in the Cine Costume Makeup Artist and Hair Dresser Association, and this led to institution of the Civil Suit, seeking various remedies, including the challenge

to the requisition for Extra Ordinary General Body Meeting to be held on 26/1/2018 and the resolutions being passed therein. The internal dispute also resulted in a prayer for permanent injunction against defendant nos.1 to 15 at the hands of the plaintiff, from creating any obstruction, interference and interruption in the functioning and management of the plaintiff no.1 Association, in any manner, whatsoever either to the office bearer of Adhoc Committee of the plaintiff no.1 Association or in any other way.

2 The Notice of Motion was taken up in the said Suit, seeking direction to the defendants to hand over the possession of the movable/immovable assets of the plaintiff no.1 Association, and for restraining the defendant nos.1 to 15 from operating the bank accounts and permitting the plaintiffs to operate the bank account.

By this order passed on this Notice of Motion, recording that the plaintiffs do not have a prima facie case, nor the balance of convenience lie in their favour, the Notice of Motion came to be rejected on 20/1/2020.

3 During the course of hearing, learned counsel for the appellant has invited my attention to an order passed in form of an ad-interim order on 6/5/2019 by the Civil Judge, City Civil Court, Dindoshi, where he has restrained the Adhoc Committee as well as the defendant nos.1 to 15 from operating the bank

accounts.

On hearing the Notice of Motion on merits, and while rejecting it, the ad-interim order dated 4/5/2019 came to be vacated. It is informed, that upon the Appeal being instituted in this Court, the interim relief extended by the trial Court on 20/1/2020, was continued.

4 The learned counsel for the respondent has placed on record a communication addressed from the CCMA and HDA through its General Secretary to the Dy. Registrar (Under the Trade Unions Act, 1926), Bombay dated 22/2/2021. This communication is an intimation to the Dy. Registrar of the newly Elected Managing Committee of the year 2021 to 2024 in the election held on 18/2/2021.

5 A careful reading of the said communication reveal that it has a reference to the correspondence made earlier i.e. 16/2/2021 and it is informed that the Returning Officer appointed for conduct of Election of the Managing Committee, had declared the results of the new committee members which include President, two Vice Presidents, one General Secretary, one Joint Secretary, one treasurer and 9 committee members. The said letter is taken on record and marked "X" for identification.

6 Learned counsel for the appellant, however, vehemently opposed the said statement and submit that without

they being in knowledge, the election has been conducted and in any case, this newly elected body, cannot be permitted to function, since the election is held behind the back of the plaintiffs without following the procedure prescribed as per the Constitution and bye-laws. In any case, it is always open for the plaintiff to raise a challenge to the election, held on 18/2/2021 by instituting appropriate proceeding which are permissible to be instituted.

The aforesaid development is only recorded to be noted. I have not expressed any opinion about the correctness or validity of the election that is held on 18/2/2021, which shall be decided by the competent authority, on raising an appropriate objection.

I am also not convinced to interfere with the order passed on the Notice of Motion, the parties are at liberty to adjudicate their respective claims in a Suit.

In the light of the aforesaid, the Appeal is dismissed.

In view of the dismissal of the Appeal, Interim Application do not survive and is disposed off.

(SMT. BHARATI DANGRE, J.)