

PMB

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

**APPEAL FROM ORDER NO.869 OF 2022
WITH
INTERIM APPLICATION NO.17909 OF 2022**

Vijay Kumar Nair ..Appellant
vs.
Krishna Hindu Merchants Club and ors. ..Respondents

Mr. Arif Bookwala, Senior Counsel a/w Ms. Mahek Bookwala
Shetty a/w Mr. Viral Thakur i/b. LJ Law for appellant.
Mr. Simil Purohit, Mr. Chirag Kamdar a/w Ms. Nanki Grewal,
Ms. Raveena Modi i/b. Wadia Ghandy & Co. for respondent
nos.1 to 10.
Mr. Jaydeep Raut i/b. Mr. Jainish Jain for respondent nos.11,
12 and 14.
Mr. Sanjay Jain i/b. Mr. Jainish Jain for respondent no.15.
Mr. Tahir Prande for respondent no.16.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 8, 2022.

P.C. :

1. After the matter was argued for some time, the parties submitted that they are agreeable for disposal of the appeal in terms of the consent minutes of order. Accordingly, the consent minutes of order are tendered which are taken on record and marked 'X' for identification. The advocates for the main contesting respondents have signed the consent

minutes of order. The presence of respondent nos.13 and 17 is not necessary. The consent minutes of order are duly signed by the respective advocates.

2. Accordingly, the following order is passed :-

ORDER

1. The Annual General Meeting of Respondent No.1 will be held on 21st October 2022 @ 4:00 p.m. at the club premises. At this meeting elections will be held for filling up the posts of members of the Managing Committee as well as for one nominee of life members of the club. There will be no election for the nominee of patron members as there are no patron members of Respondent No.1.
2. The existing Managing Committee shall not take any major policy decisions.
3. Respondent No.15 undertakes to provide the list of members alongwith their respective addresses to Respondent Nos.2 to 10 and the Appellant i.e. the present Managing Committee members of Respondent No.1 Club, on or before 12th September 2022.
4. Thereafter, Respondent Nos.2 to 10, being the current members of the Managing Committee undertake to issue notice to the members of the Defendant No.1 club by 15th September 2022

- (a) informing that the Annual General Meeting of the Defendant No.1 club would be held on 21st October 2022 @ 4:00 p.m. for holding the election;
- (b) calling for names of the members desirous of being elected as the Managing Committee of the Defendant No.1 Club within a period of 7 days thereof, i.e., 22nd September 2022,
- (c) providing date for withdrawal of the nomination within a period of 7 days thereafter, i.e., 29th September 2022; and
- (d) informing that the date of final list of the members standing for the elections would be affixed on the notice board of the Defendant No.1 club premises on 30th September 2022.

5. For the purpose of supervising and conducting the meeting of the General Body which is to be held on 21st October 2022, Mr. Paritosh Jaiswal, Advocate is appointed to act as the Chairman of the meeting. Prior to holding of the meeting, the Respondents Nos.2 to 10 shall make available to Mr. Paritosh Jaiswal, Advocate the necessary information as may be required by him including, (i) the List of members of the club (ii) the List of defaulter members and (iii) the Copies of Rules and Regulation such further information as may be required by the Chairman of the meeting by 12:00 noon on 30th September 2022.

6. The present Managing Committee of Respondent No.1 Club shall continue to hold office as an adhoc committee upto the date of the Election.

7. It is clarified that, the accounts for the period of 1st April 2018 to 31st March 2022 shall not be placed before the Annual General Meeting to be held on 21st October 2022, since these accounts have been submitted for re-auditing by the present Managing Committee comprising Defendant Nos.2 to 10 to an independent Chartered Accountant. After the audited accounts are received, the elected Managing Committee will be at liberty to hold an Extraordinary General Meeting for adopting and passing the accounts.

8. The appellant undertakes to withdraw S.C. Suit No.1908 of 2022 and the notice of motion filed therein, before the City Civil Court by 12th September 2022.

9. It is agreed by the parties that the undertakings given herein are undertakings given to this Hon'ble Court.

10. The remuneration of Mr. Paritosh Jaiswal, Advocate, shall be fixed at Rs.35,000/- which shall be paid by Respondent No.1.

11. This Order will be without prejudice to the rights and contentions of all the parties.

12. The above Appeal, Interim Application, Notice of Motion is disposed off in the aforesaid terms.

13. Liberty to apply.

(M. S. KARNIK, J.)