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

**APPEAL FROM ORDER NO.928 OF 2022
WITH
INTERIM APPLICATION NO.18490 OF 2022**

Maninder Singh ..Appellant
vs.
Shree Krishna Hindu Merchants Club
and ors. ..Respondents

Mr. Sharan Jagtiani, Senior Advocate a/w Mr. Aseem Naphade a/w Mr. Vishal Narichania i/b. Mr. Jainish Jain for applicant/appellant.

Mr. Zal Andhyarujina, Senior Advocate a/w Mr. Chirag Kamdar, Mr. Karan Bhide a/w Nanki Grewal a/w Ms. Raveena Modi i/b. Wadia Ghandy and Company for respondent nos.1 and 4.

**CORAM : M. S. KARNIK, J.
DATE : OCTOBER 19, 2022.**

P.C. :

1. The appellant-plaintiff challenges the order dated 17.09.2022 passed by the City Civil Court refusing to grant ad-interim relief. The appellant filed a suit challenging his suspension from the respondent no.1-Club.

2. I have heard Mr. Jagtiani, learned senior advocate at some length. Some of the allegations made against the appellant while suspending his membership is as regards

diversion of funds, that the appellant unilaterally dealt with the fixed deposits of the Club and illegal transfer of funds of the Club in the account of one Ms. Sampada Kulkarni. Challenging the order of suspension, Mr. Jagtiani submitted that the action on the part of the Club is malafide and only with a view to prevent the appellant from contesting the elections to the Managing Committee of the Club to be held on 21.10.2022.

3. The trial Court refused to grant ad-interim relief on the ground that the appellant did not seek leave under Order I, Rule 8 of the Code of Civil Procedure, 1908 and that despite having an opportunity to raise the issue of his suspension during the proceedings in the High Court which came to be disposed of on 08.09.2022, the suspension was not challenged.

4. Mr. Jagtiani, learned senior advocate submitted that the ad-interim relief has been refused on the technical grounds, and the other submissions on merits which form the crux of the appellant's case were not at all take into consideration and dealt with by the learned Judge. Mr.

Jagtiani submitted that the impugned Resolution suspending the membership of the appellant is vague as it can be and the appellant has been deprived of a reasonable opportunity of making an effective representation against the show cause notice. The show cause notice was bereft of any material particulars which could have enabled the appellant to deal with the allegations effectively. Mr. Jagtiani submits that one Mr. Gayomard Bharucha-respondent no.4 was the complainant at whose behest the action was initiated against the appellant who happened to be present for the Managing Committee meeting when the decision was taken to suspend the appellant. Mr. Jagtiani submitted that respondent no.4 was thus a judge in his own cause and on this ground itself the order of suspension impugned before the trial Court is vitiated. It is further submitted that proper accounts have been maintained by the appellant duly signed by the members and audited as per the Rules.

5. Mr. Andhyarujina, learned senior advocate on the other hand supported the impugned order. It is pointed out that the elections are to be held on 21.10.2022 and the

stage of filling the nomination form is already over. It is submitted that the nomination of the appellant is not accepted. It is further submitted that in any case what is under challenge is an ad-interim order and the effect of staying the order of suspension would have effect of virtually allowing the suit.

6. I have considered the rival submissions and gone through the order passed by the trial Court. I have gone through the Resolution dated 25.08.2022 suspending the appellant from the Club for a period of two months with effect from 24.08.2022. I have also gone through the contents of the letter dated 25.08.2022 justifying the suspension. It is not as if there are absolutely no reasons spelt out in the letter dated 25.08.2022 before taking an informed decision to suspend the appellant. As to whether such suspension can be sustained or not is a contentious issue which was not gone into by the trial Court at the ad-interim stage. The same can be dealt with more appropriately while deciding the Notice of Motion after parties file their responses. The rules of the Club empower

the Managing Committee to suspend a member after following the procedure stipulated thereunder. It is also difficult to infer at this stage that the Resolution dated 25.08.2022 was passed with the intention of preventing the appellant from contesting the elections and that the Resolution is malafide. In fact, it is only on 08.09.2022 that this Court at the instance of one of the members who insisted that the elections be held expeditiously issued directions fixing the schedule of Managing Committee elections in terms of the understanding arrived at between the parties. By then, the suspension order was already passed. In such circumstances, if the ad-interim relief has been refused by the trial Court, for reasons recorded hereinabove, the view of the trial Court cannot be said to be unsustainable.

7. It is also pertinent to note that the election process has already commenced and has reached an advanced stage where the elections are now to be held on 21.10.2022. It is therefore not possible to interfere at this stage. The period of suspension is in any case coming to an

end some time on 23.10.2022. For this reason also no interference is called for with the order passed by the trial Court refusing to grant ad-interim relief.

8. However, considering the nature of the controversy, the trial Court is requested to decide the Notice of Motion expeditiously and preferably within a period of eight weeks from 10.11.2022 without being influenced by the observations made by me in this order or the observations made by the trial Court. The trial Court to decide the Notice of Motion on its own merits and in accordance with law. The parties to appear before the trial Court on 10.11.2022 with the copy of this order. Parties to co-operate. Appeal From Order stands disposed of. No costs.

9. Interim Application stands disposed of.

(M. S. KARNIK, J.)