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Shri/Ms. Savita N. Malkampate
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R-2259/2020

NM 1711/20 in Suit 755/19 1

ORDER

MHCC040048852020



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22/12/2020

IN THE BOMBAY CITY CIVIL COURT AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI



NOTICE OF MOTION NO. 1711 OF 2020
(CNR NO :- MHCC04-004885-2020)

IN

S. C. SUIT NO. 755 OF 2019
(CNR NO :- MHCC04-002327-2019)

Gautam Mahapatra

)..Plaintiff

V/s

Computer Society of India

)..Defendants

Ld. Adv. Savita Malkampate with Usha Agarwal for Plaintiff.
Shri. Sanjay Mhapatra in person for Defendants.

CORAM: H. H. AD-HOC JUDGE SHRI. KRUPESH VIJAY MORE
(C.R.NO.4)

DATE : 18th December, 2020

ORDER

1. Whether plaintiff is entitled for interim relief restraining defendants from conducting CSI Elections for the year 2021-2022/2023 and from conducting subsequent years elections, from Annual Convention of CSI to be held on 11-14 February, 2021 in Lucknow and from publication of CSI Election results are the only short points involved in the notice of motion taken out by plaintiff against defendants.

R.G. Khur 28/12/2020
Superintendent
City Civil & Sessions Court
Bombay Borivali Division
At. Dindoshi (Goregaon)

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3. Defendants were directed to file reply, but instead of filing any reply defendants have only filed compilation of documents alongwith list of documents dated 18.12.2020.
4. I heard detail arguments of Ld. Adv for plaintiff Savita Malkampate with Usha Agarwal as well as defendant in person Shri. Sanjay Mhapatra at length.
5. Plaintiff is claiming to be president of Computer Society of India. Plaintiff has filed present suit against defendants for various reliefs and declaration that the Executive Committee meeting is illegal, not to operate the bank account etc. At this stage, it is not necessary to go into the details of all the prayers made by the plaintiff.
6. It is important to note that Mr. Sanjay Mohapatra, defendant no. 2 who is also claiming to be the president of Computer Society of India has filed Suit No. 2174 of 2018 before this Court claiming various reliefs. However, notice of motion taken out by plaintiff No. 2586 of 2018 was dismissed by this Court by order dated 04.06.2019, against which plaintiff preferred Appeal from Order and Hon'ble Bombay High Court disposed off the said Appeal from Order by order dated 20.09.2019. In other words, the order passed by this Court was confirmed by the Hon'ble Bombay High Court in Appeal from Order and thus the order of this Court dated 04.06.2019 has become final.
7. In substance it is the contention of plaintiff that defendant has again called for Election for the year 2021-2022/2023. The said Elections are called by Nomination Committee which is elected by Ad-Hoc Nomination Committee which has no legal entity, therefore, it is



necessary to restrain defendants from conducting CSI Elections and further subsequent Elections.

8. No affidavit in reply is filed by defendant no. 2. Defendant no. 2 orally contended that the Nomination Committee has taken approval from General Body which has the ultimate authority to conduct the business of Computer Society of India, therefore, the Nomination Committee has every right to call for the elections for the year 2021-2022/2023.

9. It is important to note that in Suit No. 2174 of 2018 defendant no. 2 prayed for various reliefs before this Court and the most important issue as far as formation of Ad-Hoc Nomination Committee is concerned, this Court (H.H.J. Shri. M. I. Lokwani) in paragraph no. 17 of the order observed that when the Nomination Committee had already existed in the society, then what was the requirement or the urgency for the defendant no. 2 to form new Ad-Hoc Nomination Committee and defendant no. 2 failed to give any satisfactory explanation to that effect, hence, no relief was granted in favour of defendant no. 2.

10. It is important to note that when defendant no. 2 filed Appeal from Order before the Hon'ble Bombay High Court, it was observed by Hon'ble Bombay High Court vide paragraph no. 6 of the order that suit of defendant was to be disposed off as not pressed. It was further clarified that legal issues concerning the matter and particularly interpretation of the bye laws of the plaintiff society in the matter of conduct of elections, are kept open. In view of the above observations and letter issued by the Nomination Committee for the

Elections of 2021-2022/2023 plaintiff is justified in applying for injunction against defendants, because the finding of this Court in the suit filed by the defendants against plaintiff that formation of Ad-Hoc Nomination Committee is in violation of the bye laws has become final.

11. By the order of Hon'ble Bombay High Court in Appeal from Order No. 702 of 2019, once the finding that Ad-Hoc Nomination Committee has no legal entity has become final, it is not entitled to conduct any business of the Computer Society of India. It is important to note that the Nomination Committee for the year 2021-2022 is elected none other than the Ad-Hoc Nomination Committee which is not legal entity, therefore, Nomination Committee is not authorised to conduct elections of the Computer Society of India for the year 2021-2022 as well as to call for Annual Convention schedule to be held on 11-14 February, 2021 or for the publication the result of CSI Elections for the year 2021-2022/2023, hence, plaintiff has made out case for interim relief as prayed in the notice of motion. Hence, I proceed to pass the following order.

ORDER

1. Notice of Motion is made absolute in terms of prayer clause (a), (b) & (c).
2. Parties to bear their own cost.
3. Notice of Motion No. 1711 of 2020 is disposed of.



(Krupesh Vijay More)
Ad-hoc Judge, City Civil Court,
Borivali Div. Dindoshi, Mumbai.

Date 18.12.2020

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ORDER

Dictated on : 18.12.2020
 Transcribed on : 18.12.2020
 Checked & corrected on : 22.12.2020
 Signed on : 22.12.2020
 Sent to Dept on :

Copy check by- S.S. Padane 22/12/2020

CERTIFIED TRUE COPY
 This 23 day of DEC 2020
 for Registrar 23/12/2020
 City Civil Court, Bombay
 Borivali Division at
 Dindoshi (Goregaon)

Sealed
 This 23 day of DEC 2020
 23/12/2020

(10)



Asstt Registrar
 City Civil & Sessions Court
 Borivali Division
 Dindoshi, Bombay