

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit 1374 of 2022

Date	Order with signature of Judge(s)
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1. For hearing of CMA No.13308/2022.

18.09.2023

Mr. Saadi Sardar, advocate for the plaintiffs.
Mr. Ahmed Masood, advocate and Mr. Rehan Kayani, advocate for the defendants.

This suit emanates from the allegation *inter alia* that the plaintiffs have obtained membership of the defendant club through forged documents / antecedents. A suspension notice dated 01.03.2022 was issued, which read as follows:

“...Subject: **Suspension of Karachi Gymkhana Membership**

Ref: Karachi Gymkhana letter No.KG/IR-Z(00-5670-1)/2022 dated 7th January 2022.

Dear Sir,

The Managing Committee in its Meeting held on 18th February 2022 discussed your case in the light of stated letter and asked you to immediately resign from the membership of Karachi Gymkhana, failing which, your case will be taken to the Special General Body Meeting for termination from permanent membership, till such time, your membership status will remain SUSPENDED under Club Rule 30...”

It is submitted that the plaintiffs had obtained membership of the club, representing themselves to be sons of Mr. Zaheeruddin, as demonstrated from page 27 of part 2 of the Court file, however, it is an admitted fact that the plaintiffs are sons of Salahuddin, as pleaded in the title of the suit as well. The issue which led to the suspension was *inter alia* the allegation that the plaintiffs had obtained membership of the club through misrepresentation / fraud, hence, the suspension and the action anticipated per the Rules & By-Laws of the defendant club. It was submitted that the general body meeting, that was to be held in 2022, could not be held as the said proceedings were suspended/stayed in some other matter. It is further submitted that due to ad-interim order passed herein on 13.09.2022, the suspension letter could not be acted upon and the proceedings envisaged per the Rules & By-Laws remain in abeyance till date.

At the very onset, learned counsel for the plaintiffs was confronted with the *prima facie* anomaly of declared parentage, as demonstrated from the court file, however, he remained unable to provide any cogent

justification in such regard. It is learned counsel's only contention that mere suspension could have been awarded to the plaintiffs and upon conclusion of that period, no further proceedings/penalty were merited. At this initial stage, the Court finds itself unable to sanction such a proposition as the same does not appear to be sustainable from Rules & By-Laws under consideration.

On the other hand, learned counsel for the defendant submits that a serious *prima facie* case of misrepresentation / fraud by the plaintiffs is manifest, and under such circumstances, it is only just and proper that the methodology prescribed vide the Rules & By-Laws of the club, Rule 30 in specific, be followed. Learned counsel submits that the proceedings against the plaintiffs shall be in due accordance with the law and there is no reason for such proceedings to be continually held in abeyance.

The primary issue appears to be the parentage of the plaintiffs and the manifest anomaly in such regard could not be justified by the plaintiffs' counsel before this Court. The Rules require such matter to be addressed in terms of the prescription thereof and the same ought not to be postponed or jurisdiction of the relevant forum prescribed be assumed by anybody else. It is also noted that the Rule 30 provides ample opportunity for the plaintiffs to present their case/defense and under such circumstances no case is made out to stay the due process of the law.

The veracity of any allegation levelled has to be determined before the forum designated in such regard by the Rules & By-Laws, to which all members and the club are privy. It is nobody case that the jurisdiction of that forum may be assumed by another.

The dispute resolution mechanism of a members' club is essentially a domestic matter and it has been held¹ that Courts would not interfere unless it is demonstrated that the rules were opposed to natural justice and / or were not followed; there was manifest malice or *mala fides* in arriving at a decision; and / or the principles of natural justice were ignored. *Wahiduddin Ahmed J (as he then was)* maintained that barring the presence of the aforesaid ingredients, no jurisdiction could be assumed by a civil court in disciplinary matters of a club. The aforementioned *ratio* was maintained in a subsequent pronouncement of this Court, being *Jahangir Moghu²*, however, jurisdiction was assumed by

¹ Per *Wahiduddin Ahmed J (as he then was)* in *D M Malik vs. Jockey Club of Pakistan & Others* reported as *PLD 1960 (West Pakistan) Karachi 325*; cited with approval.

² Per *Munib Akhtar J* in *Jahangir Moghul & Others vs. Karachi Gymkhana* reported as *2012 CLC 1829*.

the court as an ultimate arbiter of questions of law³, predicated upon a substantiated assertion that interpretation of the relevant rules was being undertaken in a manner dissonant with the law. In the present case there has been no decision and the prescribed process has only begun, hence, no case for interference is made out. It is the observation of this Court that the plaintiffs' counsel has remained unable to satisfy the threshold requisite for grant of interim relief in such club matters.

In conclusion, it is observed that the plaintiffs' counsel failed to demonstrate that the basic ingredients imperative for grant of ad-interim application, i.e. *prima facie* case, balance of convenience and irreparable loss, therefore, this application is hereby dismissed.

JUDGE

Khuhro/PA

³ Reliance was placed upon *Baker vs. Jones* reported as [1954] 2 All ER 533 and *Lee vs. Showmen's Guild of Britain* reported as (2) [1952] 1 All ER 1181; authored by *Denning L.J.* (as he then was).