

CS No.23/19
Sunil Malhotra Vs. Delhi Gymkhana Club Ltd.

20.11.2024

Present : Plaintiff in person.

Mr. Aastik Dhingra, Ld. Counsel for the defendant.

The application of the plaintiff under Order 11 Rules 12 & 14 r/w section 151 CPC dated 23.08.2017 is taken up for consideration.

This application has been filed for direction to the defendant to produce three documents. It is submitted that two out of these three documents have already been produced by the defendant and therefore, the application remains to be adjudicated only qua one document which is the lease deed dated 28.02.1928.

It is this lease deed by which land was allotted by the State to the defendant.

It is stated in the application that the land was allotted to the defendant on concessional rates and in general interest of the public to achieve its objects. It is averred that allotment was subject to the defendant club complying the terms and conditions of the document and utilization for the activities of the club.

Reply to the application has been filed.

It is stated in the reply that the lease deed has no connection with the matter in controversy.

Arguments have been heard and record has been perused.

For the purpose of obtaining an order for production of document, the plaintiff has to convince the Court that the document is relevant for the purpose of adjudication of the case.

Despite repeatedly asking by the Court, the plaintiff has not been able to point out any averment in the plaint in which it is stated that the defendant has been functioning in contravention to the terms of allotment of land as mentioned in the lease deed.

Since no such averment is there in the plaint, the Court is of the opinion that the lease deed is not relevant for the purpose of deciding the present case.

As such, the application under Order 11 Rules 12 & 14 r/w section 151 CPC dated 23.08.2017 is dismissed.

Now the application of the plaintiff under Order 11 Rules 12 & 14 r/w section 151 CPC dated 15.02.2024 is taken up for consideration.

By this application, the plaintiff seeks direction for production of seniority list of the applicants as per Candidate's Book maintained by the defendant club and number of vacancies available for membership.

It is submitted by the plaintiff that as per clause 7 of the Articles of Association of the defendant club, the defendant is required to maintain a Candidate's Book to be kept by the Secretary of the Club.

It is submitted that the plaintiff applied for the membership of the club more than 33 years back and his name was entered into the Candidate's Book. However, the seniority list in which the name of the plaintiff is mentioned has not been provided.

It is averred that the defendant has not even indicated the number of vacancies which are available for membership. It is submitted that the plaintiff has prayed for direction to the defendant to grant permanent membership to the plaintiff in accordance with the seniority of the plaintiff.

It is also stated that the plaintiff has prayed for the declaration that the categorization of classes of members by the defendant is illegal.

On the basis of the above averment, it is submitted that the seniority list and disclosure of the number of vacancies is essential for the purpose of determining the real questions in controversy between the parties.

Reply to the application has been filed.

It is stated that the document/information sought has no connection with the matter in controversy in the present case.

It is averred that the plaintiff is making a fishing and roving enquiry into the affairs of the defendant and the information sought is confidential between the defendant and other membership applicants of the defendant.

Ld. Counsel for the defendant submits that the application has been filed belatedly and after seven years of institution of the suit. It is prayed that the application be dismissed.

Arguments have been heard and record is perused.

It is not in dispute that the defendant club was allotted land by the State on concessional rates and is required to promote sports activities.

The entire grievance of the plaintiff is that he applied for membership more than 33 years back and has still not been provided membership. For the purpose of determining whether the plaintiff has justifiably been still put in the waiting list, the Court needs to examine the seniority list and the number of vacancies available for membership.

Therefore, the seniority list is a relevant document and disclosure of vacancies is also important.

For this reason, the application of the plaintiff under Order 11 Rules 12 & 14 r/w Section 151 CPC dated 15.02.2024 is allowed with the direction that the defendant will file the seniority list as per the Candidate's Book by the next date of hearing and after supplying advance copy to the plaintiff atleast 15 days prior to the next date of hearing.

The defendant shall also file an affidavit in the format of Form No.3 in Appendix C of CPC referred to in Order 11 Rule 9 of CPC to answer the interrogatory about the number of vacancies available for the membership of the Defendant Club.

Let advance copy of the affidavit be supplied to the plaintiff atleast 15 days prior to the next date of hearing.

Now the third application of the plaintiff under Order 11 Rules 12 & 14 r/w Section 151 CPC dated 13.04.2024 is taken up for consideration.

By this application, the plaintiff seeks production of list of members, who became permanent members of defendant club from green card/UCP category and other category from the 50% quota fixed for non-government category as registered in the

Candidate's Book maintained by the defendant club after 05.01.1991.

It is stated in the application that a prayer has been made for declaring the membership of the above members as illegal.

It is submitted that even as per the Ministry of Corporate Affairs, the defendant club has been giving membership to the above category of persons illegally. In this regard, reference is made to the submissions made by the Ministry of Corporate of Affairs before the NCLT which are quoted in paragraph nos. 10 and 11 of the application.

Ld. Counsel for the defendant submits that the legality of grant of membership to the above category of person is subjudice before the NCLT.

Arguments have been heard and record has been perused.

In view of the prayer made by the plaintiff for declaring the membership given to the above category of persons as illegal, the Court is of the opinion that having the list of such members who as per the plaintiff were illegally and out of turn given membership will assist the Court in arriving at a fair decision on the prayer made by the plaintiff.

Application is allowed.

The defendant is directed to make discovery on oath the list of members, who became permanent members of defendant club from green card/UCP category and other category from the 50% quota fixed for non-government category as registered in the Candidate's Book maintained by the defendant club after 05.01.1991.

Rejoinder to the reply to the application under Order 12 Rule 6 r/w Section 151 CPC is filed by the plaintiff. Copy is supplied.

To come up for arguments on the said application on 01.03.2025.

(Shirish Aggarwal)
District Judge-03
Patiala House Courts, New Delhi
20.11.2024