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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 414/2020**

DR. P. V. VIJAYARAGHAVAN & ORS. Plaintiffs

Through: Mr. Dinesh Agnani, Senior Advocate
with Mr. Manish Kumar & Mr. Piyush
Kaushik, Advocates.

versus

NITYAM SOFTWARE SOLUTION PVT. LTD. & ORS.

..... Defendants

Through: Mr. Aishvary Vikram, Advocate for
D-1 & D-2.

Mr. Ashish Choudhury, Mr. Akash
Agarwal & Mr. Anand Kamal,
Advocates for D-3 and D-4.

Ms. Archana Pathak Dave & Mr.
Parmod Kumar Vishnoi, Advocates
for D-5.

Mr. Anukul Raj, Ms. Nikita Raj &
Mr. Anubhav Deep Singh, Advocates
for D-6

Mr. Siddhant Nath, Advocate for D-8.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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14.10.2022

I.A. 14457/2022

Notice on this application was issued on 06.09.2022 and learned counsel, as above, appearing for defendants Nos. 3, 4 and 5 seek time to file a reply. However, on a preliminary hearing of the application, that may not be necessary.

2. Learned counsel appearing for defendants Nos. 3, 4 and 5 point-out that, as is evident, the claim in the suit was only a challenge to the election process for the executive committee of the Indian Orthopedic



Association for the year 2020 and the result thereof as declared in *November 2020*, the allegation being that the elections conducted in that year were not in accordance with the constitution of the Association. It is also pointed-out that the further prayer in the suit was that defendants Nos. 1 to 6 be restrained permanently from acting upon the outcome of the elections held between 01.11.2020 and 21.11.2020; in addition to seeking investigation by an independent agency or a retired Judge to fix responsibility for the elections of the year 2020, which were alleged to have been held illegally, favouring a particular class of persons; and for cancellation of the licence of defendants Nos. 1 and 2 based on such investigation.

3. Counsel submit that other objections apart, the prayer in the present application far exceeds the scope and claim in the suit, inasmuch as the applicant now seeks a direction that the elections scheduled to be held in *November 2022* be conducted under the supervision of a retired Supreme Court or High Court Judge; with a further direction to defendants Nos. 3, 4 and 5 to “... *keep themselves away*” from the process of elections scheduled in November 2022.
4. Counsel submit that it be also noted that, in any event, a retired High Court judge has been appointed as an ‘observer’ for the elections scheduled to be conducted in November 2022 and the learned Judge has already given his consent for such appointment *via* e-mail dated 05.09.2022, a copy of which could be placed on record, if so directed.
5. It is also submitted that since the election process for the year 2022 has already commenced on 01.08.2022, that process should not be impeded. It is argued that if the plaintiffs have any grievance in relation



to the elections for the year 2022, they ought to file a separate substantive suit for the purpose.

6. Considering the nature of the contention raised, as observed above, it is not considered necessary to call for any formal reply to the application.
7. It is abundantly clear that the claim in the suit, as also the prayers made, relate only to the elections for the Executive Committee of the Indian Orthopedic Association conducted in *November 2020*, which are the only disputes pending adjudication before the court. It also transpires that elections were also conducted for the year 2021, which are also not subject matter of the proceedings in the present suit. There also cannot be any cavil with the position that by way of the present application the plaintiffs have sought directions in relation to the conduct of elections scheduled in *November 2022*. The position of law in this behalf is also beyond contention, namely that a prayer in an interim application cannot exceed the scope of the prayer and claim in the main suit, since interim relief can only be granted in aid of the main relief that a party seeks in a proceeding. If it were at all required, the principle can be pithily recounted in the words of the Hon'ble Supreme Court in *Sree Jain Swetambar Terapanthi Vid (S) vs. Phundan Singh & Ors.*¹ in the following words:

*“19. We may observe that in an adversarial litigation the relief has to be granted to the parties based on their pleadings. **No relief should be granted in interlocutory proceedings beyond the scope of the suit... .**”*

(emphasis supplied)

¹ 1999 (2) SCC 377



8. In the above view of the matter, since the prayers made in the present application are evidently beyond the scope of the prayers made in the suit, the application cannot be entertained in the present matter.
9. The application is accordingly dismissed.

I.A. 12483/2020

I.A. 567/2021

I.A. 4577/2021

I.A. 5934/2021

I.A.6880/2021

I.A. 7962/2021

I.A. 4052/2022

I.A. 7859/2022

10. Re-notify on 31st January 2023.

ANUP JAIRAM BHAMBHANI, J.

OCTOBER 14, 2022/uj