

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP No.D-4599 of 2021

For orders as to maintainability of the petition.

10.08.2021

Mr. Mumtaz ali Khan Deshmukh, Advocate for petitioner.

Facts giving rise to the instant petition are that petitioner, President of M/s Anjuman Masjid-e-Noor, a Society registered with the Registrar of Societies, situated at PECHS Karachi, is running the affairs of the Society in accordance with its Memorandum of Association. It is averred that the respondents No. 9 and 10 are not offering prayers regularly in the Masjid-e-Noor. The grievance of the petitioner is that the said respondents in collusion with the official respondents No.5, 6 and 7 hatched a conspiracy and pasted an anonymous pamphlet on the notice board of the Society containing irrelevant facts and baseless allegations. Consequently, petitioner and other members of the Society announced a date for elections; however, the respondent No.7 while illegally exercising his powers appointed respondent No.9 as Chairman of Ad-hoc Committee of the Society vide letter/notification dated 21.05.2021. Petitioner filed a Suit bearing No.1352 of 2021 against the respondents No.7 and others and the learned XI Senior Civil Judge, Karachi East, without touching merits of the case, vide order dated 03.07.2021, suspended the operation of the impugned letter/notification. Subsequently, the trial Court vide order dated 16.7.2021 while ordering the parties to maintain status-quo till the next date of hearing directed the petitioner/plaintiff not to conduct election proceedings unilaterally. Thereafter, the petitioner having no alternate and efficacious remedy filed instant petition seeking suspension of aforesaid two orders passed in Suit No.1352 of 2021.

Learned counsel for the petitioner contends that Respondent No.7 (impleaded as one of the defendants in the suit pending before XI Senior Civil Judge, Karachi East) has no jurisdiction and or authority to nominate/appoint any person as Chairman of the Adhoc Committee of the Society, therefore having no alternate and efficacious remedy the petition is maintainable. When he was confronted with the memo of Civil Suit No.1352 of 2021, filed by him by means of a statement dated 30.07.2021, and the orders dated 03.07.2021 and 16.7.2021 passed therein, he conceded that the alternate remedy lies before the District Judge.

In view of availability of alternate and efficacious remedy to the petitioner, we are of the view that instant petition is not maintainable and is dismissed alongwith pending misc. applications.

Judge

Chief Justice