

(2002) 06 AP CK 0151

In the Andhra Pradesh High Court

Case No : C.R.P. No"s. 5430, 5431 and 5432 of 2001

Md. Azharuddin

APPELLANT

Vs

Dr. A. Muthaiah and Others

RESPONDENT

Date of Decision : 07-06-2002

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 16, Order 6 Rule 4, Order 7 Rule 1, 113, 115
Constitution of India, 1950 — Article 14, 16, 19(1), 20(3), 21
Specific Relief Act, 1963 — Section 34

Citation : AIR 2002 AP 409 : (2002) 2 AnWR 453

Hon'ble Judges : Motilal B. Naik, J

Bench : Single Bench

Advocate : T. Jagdish, for the Appellant; S. Niranjan Reddy, for the Respondent

Judgement

Motilal B. Naik, J.—These three CRPs arise out of a common order dated 17-10-2001 passed in I.A. Nos. 1659, 2844 and 2845 of 2001 in O.S. No. 10 of 2001 by the II Additional Chief Judge, City Civil Court, Hyderabad.

2. Since these three revisions arise out of a common order, they are taken up together and are being decided by the following common order.

3. Petitioner in these three revisions is the plaintiff in O.S. No. 10 of 2001 which is instituted u/s 26 Order 7 Rule 1 of CPC seeking the following relief's, viz.,

a) By declaring a portion of clause 38(ii) of the Rules of BCCI after its severance to the extent which precludes, prohibits the plaintiff from calling into question the action taken by the committee as a result of an enquiry under the clause, in any court of law as bad, illegal, unconstitutional opposed to public policy;

b) And by declaring the appointment of defendant No.2 and report drawn up by him as null and void, contrary to the established procedure and ultra-vires.

c) And by declaring the proceedings of the first defendant dated 05-12-2000 punishment and imposition of life ban there under duly communicated by the

Secretary through his letter dated 11-12-2000 as being null and void contrary to rules and regulations of BCCI, violative of principles of natural justice and Articles 14, 16, 19(1)(e), (g), 20(3) and 21 of the Constitution of India;

d) It is also further just and necessary to declare that the plaintiff be permitted to play cricket during his life time for the Indian National Team and such other teams during his life time and shall be entitled to all retirement benefits as an international cricketer in India and to permit him to hold any such position as may be available are may be considered in BCCI or ICC;

e) It is further more just and necessary that this Hon'ble Court may be pleased to issue a perpetual and permanent injunction restraining the defendants in any way either interfering or restricting the cricketing career of the plaintiff directly or indirectly;

f) For the costs of the suit;

g) such other relief or reliefs as this Hon'ble Court may deem fit and proper to be passed in the circumstances of the case.

4. Plaintiff who is a former captain of Indian cricket team instituted the said suit against three defendants viz., 1) The Board of Control for Cricket in India; 2) K. Madhavan, Commissioner appointed by the defendant No.1; and 3) Dr. A.C. Muthaiah, the then President of the defendant No.1.

5. Plaintiff claimed that because of his excellent performance in cricket, he was selected to represent India in Cricket tests against England in India during 1984-85. As he is a prolific batsman and player of high caliber, he was selected as Captain of Indian Cricket Team. He represented Indian cricket team not only in this country but also outside the country and had brought laurels not only to the Indian cricket team but also to the nation in the field of cricket.

6. Plaintiff instituted the suit mainly questioning the order dated 5-12-2000 communicated to him on 11-12-2000 imposing a life ban on the cricketing career of the plaintiff by the first defendant - BCCI. In the pleadings set out in several paragraphs, the plaintiff has taken pains to narrate the instances of irregularities committed by the BCCI and the biased attitude of the third defendant against the plaintiff and also the manner in which the second defendant was appointed as enquiry officer by the third defendant and the manner in which the proceedings dated 5-12-2000 imposing a life ban on his cricketing career were issued.

7. According to the principle averments in the plaint, the first defendant is a society registered under the provisions of Indian Societies Registration Act at Madras on 28-11-1940. The power and duties and control over the affairs and conduct of players, enquiry, working committee etc., are all governed by the memorandum of rules and regulations of the first defendant, as amended from time to time.

8. Plaintiff claimed that the relationship between himself and the first defendant

is in the nature of a service contract. In the plaint averments, the plaintiff alleged that there have been serious allegations of mismanagement, corruption against the first defendant. The second defendant at the instance of the first defendant who was appointed as Commissioner to go into the allegations against the plaintiff, is the handpicked person of the third defendant and had made a preliminary enquiry against the plaintiff and on the basis of the preliminary enquiry, the first defendant imposed a punishment of life ban on the cricketing career of the plaintiff by proceedings dated 5-12-2000 on account of which the plaintiff is prevented from playing first-class cricket. The plaintiff in his averments, running into 42 paragraphs, narrated the instances and the manner in which the enquiry was conducted and the deficiencies therein and the bias shown towards him, apart from pleading that the principles of natural justice have been violated by these defendants while imposing the penalty of life ban on his cricketing career through the proceedings dated 5-12-2000 and contended that such action of the first defendant is violative of Articles 14, 16, 19(1)(e), (g), 20(3) and 21 of the Constitution of India and sought a decree by declaring that the life ban imposed on him is null and void, contrary to rules and regulations of the first defendant and also sought such other reliefs as indicated above.

9. The respondents in these three revisions who are the defendants in O.S.No.10 of 2001 have filed I.A. Nos. 1659, 2844 and 2845 of 2001 under Order 6 Rule 16 read with Section 151 of CPC seeking to strike down the pleadings set out in para Nos. 5, 6, 7, 9, 10, 11, 12, 22, 29, 36, 37 and 38 mainly on the ground that the allegations leveled by the plaintiff against them in those paragraphs are scandalous, frivolous, vexatious and are unnecessary.

10. On behalf of the plaintiff who is the respondent in those three I.As., counters were also filed opposing the said applications contending that the plaintiff cannot be asked to delete those paragraphs and cannot be dictated by the defendants to strike out those paragraphs. The plaintiff also urged the Court below that the paragraphs which are sought to be struck down by these defendants are deleted, nothing survives in the plaint averments. He also contended that each of those paragraphs is based on facts in support of the case of the plaintiff and that after filing written statement by these defendants the Court can frame appropriate issues and grant relief if plaintiff proves his case by adducing cogent evidence. The plaintiff therefore, pleaded for dismissal of those applications.

11. The Court below on the basis of elaborate submissions made on behalf of the respective parties, having regard to the main relief sought by the plaintiff in the suit, partly allowed the three I.As. by the impugned common order dated 17-10-2001 ordering striking off certain pleadings from the plaint averments and directed to file an amended plaint copy within a period of two weeks from that day. It is this common order of the Court below which is challenged by the plaintiff in these three revision petitions.

12. On behalf of the petitioner-plaintiff, Sri K.G. Kannabhiran, learned senior

counsel along with Sri T. Jagadish, counsel on record, mainly contended that the Court is not competent to order striking off certain paragraphs from the plaint on the ground that they are vexatious, frivolous and scandalous without there being any evidence to reach to such conclusion that the allegations made in those paragraphs are vexatious, frivolous and scandalous. According to the learned senior counsel, as provided under Order 6 Rule 16 of CPC, if the pleadings are frivolous, vexatious and vague, then only they can be ordered to be deleted. Learned senior counsel submitted that the paragraphs which are ordered to be deleted are the foundational facts on which the relief is sought for. The pleadings in those paragraphs are very much necessary to explain the biased and arbitrary manner in which the Commissioner-second defendant has drawn up his report against the plaintiff and if they are deleted, the plaint becomes soulless and empty. Learned senior counsel, therefore, stated that the Court below has not examined the crux of the manner in this angle and has committed a grave error in ordering striking off certain paragraphs which would result in irreparable injury to the plaintiff. Learned senior counsel neatly contended that if the Court below entertained a doubt in the matter, as provided u/s 113 of the CPC, it could have stated the case and referred the same for the opinion of the High Court and on the basis of the opinion given by the High Court, the Court below could have proceeded to decide the matter on merits. Counsel stated, without resorting to this procedure contemplated u/s 113 of CPC, the Court below straight away directed striking off certain paragraphs from his plaint, only on the basis that the plaintiff could not have pleaded that the action of the respondents-defendants in imposing a life ban on his cricketing career is violative of the principles of natural justice and offends his fundamental rights guaranteed under Articles 14, 16, 19(1)(e), (g), 20(3) and 21 of the Constitution of India which relief could not be granted by the Civil Court. Learned senior counsel contended that merely because certain constitutional provisions are quoted in the pleadings, the Court below without appreciating the background in which they were referred to, misconstrued the context and erroneously ordered striking off those paragraphs in which constitutional provisions are cited. Learned senior counsel further submitted that Order 6 Rule 4 of CPC provides that in all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, willful default, undue influence, such particulars shall be stated in the pleadings. Placing reliance on this provision, it is contended that in the paragraphs which are ordered to be deleted, the plaintiff has set out the facts which are necessary for the said purpose and as such, the Court below is not justified in ordering the plaintiff to strike out those pleadings. Learned senior counsel while drawing my attention to the provisions u/s 34 of the Specific Relief Act, 1963, contended that a discretion is vested in the Court to pass a declaratory decree if any person is entitled to any legal character or to any right as to any property, and that the Court below is not precluded from passing a declaratory decree in favour of the plaintiff. In order to grant such a decree, proper pleadings are necessary and the Court below is not justified in striking out certain paragraphs which are relevant for the purpose of proving the case of the plaintiff. Counsel further contended

that the relationship between the plaintiff and the first defendant is a service contract and any breach or violation of the same, the plaintiff can take recourse to Article 311 of the Constitution of India for redressal of his grievances and the Civil Court is competent to grant such a relief. In support of his varied contentions, learned senior counsel placed reliance on the decisions reported in PANCH GUJAR GAUR BRAHMANS Vs. AMARSINGH, KAMALA AND OTHERS Vs. AMMANNA RAI AND OTHERS and in THE UNION OF INDIA Vs. PANDURANG KASHINATH MORE. Under these circumstances, it is pleaded for setting aside the impugned common order made by the Court below.

13. On behalf of the Board of Control for Cricket in India - first respondent, Sri U.N. Banerjee, learned senior counsel mainly contended that when an application is filed under Order 6 Rule 16 CPC to strike out certain paragraphs on the ground that they are vexatious, scandalous and frivolous, the Court has to examine as to what is the case made out by the plaintiff in the suit and whether such deletion of paragraphs goes to the root of the case of the plaintiff. Counsel stated, the main relief sought in the suit is to declare the life ban imposed on the plaintiff's cricketing career by proceedings dated 5-12-2000 as illegal, violative of the principles of natural justice and offending Articles 14, 16, 19(1)(e), (g), 20(3) and 21 of the Constitution of India, which relief is in the nature of enforcement of the fundamental rights guaranteed to the plaintiff under the Constitution of India. Counsel submitted that to seek such a relief, the plaintiff must confine his pleadings to the relevant facts only but he cannot make allegations against the defendants which are vexatious, frivolous and scandalous. Placing reliance on "PLEADINGS: PRINCIPLES AND PRACTICE" BY Sir Jack Jacob and Iain S. Goldrein, published by London Sweet & Maxwell, 1990 Edition, learned senior counsel for the first respondent contended that the plaint shall contain material facts with precision and certainty but not vague and frivolous averments. Counsel contended that as provided under Order 6 Rule 16 of CPC, ascertain pleadings are vexatious, scandalous and frivolous which are in the nature of making wild allegations against the defendants, the Court below is justified in ordering striking off such pleadings. Learned senior counsel neatly submitted that a Civil Court u/s 113 of CPC is entitled to state the case and refer the same for the opinion of the High Court only where an issue before it involves a question as to the validity of any Act, Ordinance or Regulation or any provision contained in an Act, the determination of which is necessary for disposal of the case and the Court below is of the opinion that such Act/Ordinance or Regulation is invalid or inoperative but has not been so declared by the High Court. According to the learned senior counsel, in the instant case, as no question is involved before the Court below relating to the validity of any Act or Ordinance or Regulation or any provision of any Act, and therefore, there is no reason for the Court below to state the case and seek opinion of this Court. Counsel nextly submitted that this Court is not sitting as an appellate authority to examine the correctness of the impugned order but only examining the same u/s 115 of CPC and as such, this Court is required only to examine whether the impugned order suffers from

material irregularity or jurisdictional error warranting interference. In support of his contentions, learned senior counsel placed reliance on two decisions of the Supreme Court in HELPER GIRDHARBHAI Vs. SAIYED MOHAMMED MIRASAHEB KADRI and in CHANDRIKA PRASAD (DIED) Vs. UMESH KUMAR VERMA AND OTHERS.

14. None represented the second respondent in these revisions.

15. On behalf of the third respondent-defendant Dr. A.C. Muthaiah, Sri Ramesh Ranganathan, learned Additional Advocate General appeared and made elaborate submissions supporting the impugned order passed by the Court below. Referring to the contention advanced on behalf of the petitioner-plaintiff that for the infringement of the right of the plaintiff under Article 311 of the Constitution of India, the Civil Court is competent to grant such relief, learned counsel submitted that the relationship between the first defendant and the plaintiff is not that of a master and servant nor the plaintiff is holding any All India Service Post or a Civil Post under the first defendant. The plaintiff only entered into a contract for playing cricket along with the members of the cricket team and as such there is no relationship of master and servant between them. According to the learned counsel, Parliament is competent to confer certain powers on the Courts other than the Constitutional Courts for granting certain reliefs which are mainly on the touchstone of redressed of constitutional rights and in the absence of such power being vested in the Court below go grant the relief of enforcement of a constitutional right of the plaintiff, the Court below is justified in ordering striking out of certain paragraphs from the pleadings which are in the nature of seeking enforcement of fundamental rights. Learned counsel while drawing my attention to various paragraphs in the pleadings, submitted that the Court below is justified in ordering the plaintiff to striking out certain paragraphs as they are irrelevant and unnecessary for deciding the main relief sought in the suit. Counsel, therefore, submitted that no interference is required by this Court u/s 115 of CPC and the revisions are liable to be dismissed.

16. In the light of these submissions, the point for consideration is whether the impugned common order passed by the Court below ordering striking out certain paragraphs from plaint pleadings, is sustainable ?

17. Before I proceed to examine certain aspects on the basis of the submissions made by the learned counsel for the contesting parties, it must be remembered that these revisions are filed u/s 115 of CPC.

18. The provisions of Section 115 of CPC read thus:

115. Revision - (1) The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears -

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity;

the High Court may make such order in the case as it thinks fit:

Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceedings, except where -

(a) the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceedings, or

(b) the order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made.

(2) The High Court shall not under this section, vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto."

19. This Court exercising jurisdiction u/s 115 of CPC has a restricted role in the matter, while examining the correctness of the orders passed by the Courts subordinate to this High Court. This Court cannot sit as an appellate authority reappraise the evidence and correct the demeanor committed by the Court below. This Court exercising jurisdiction u/s 115 of CPC has only to examine whether the Court which passed the order had basically committed jurisdictional error or failed to exercise such jurisdiction so vested or acted in excess of such jurisdiction illegally and if such an order passed by the Court is allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom such an order is passed.

20. I have had the benefit of going through the entire set of pleadings of the plaintiff and the affidavits filed in support of the petitions filed under Order 6 Rule 16 CPC by the three defendants and the detailed impugned common order passed by the Court below ordering the plaintiff to strike down certain paragraphs from the pleadings.

21. The pleadings as set out in the plaint run into 42 paragraphs and 43rd paragraph is mainly for seeking relief by the plaintiff. The plaintiff in all sought seven reliefs viz., (a) to (g) in Paragraph 43. The principal relief sought for by the plaintiff under clauses (c), (d) and (e) to declare the life ban imposed on his cricketing career by the first defendant through proceedings dated 5-12-2000 as being null and void, contrary to rules and regulations of BCCI, violative of principles of natural justice and Articles 14, 16, 19(1)(e), (g), 20(3) and 21 of the Constitution of India; and also for a declaration that the plaintiff be permitted to play cricket during his life time for the Indian National Team and such other teams during his life time and shall be entitled to all retirement benefits as an international cricketer in India and to permit him to hold any such position as may be available or may be considered in BCCI or ICC. Relief (e) is for a perpetual and permanent injunction restraining the defendants in any way either

interfering or restricting the cricketing career of the plaintiff directly or indirectly.

22. These three reliefs sought are the principal reliefs and the other reliefs are incidental to these main reliefs. In the light of the above reliefs, I shall proceed to consider the averments made by the plaintiff in his plaint.

23. Para-5 of the plaint reads thus :

"That there have been serious allegations of mismanagement, corruption etc., against BCCI. A Public Interest Litigation/Civil Writ Petition was instituted before the Hon"ble High Court of Delhi. Notice on the said petition has already been served on the BCCI and the matter is still pending before the Hon"ble Delhi High Court at New Delhi."

24. This paragraph is sought to be deleted by the first respondent/defendant in its entirety on the ground that this not at all relevant for the purpose of granting the main relief in the suit. The trial Court accepting the submission of the first respondent ordered the plaintiff to delete the entire paragraph.

25. Coming to paragraph-6, though the first defendant sought to delete the last sentence viz., "That there is a relationship of Advocate and client between defendants No. 2 and 3 respectively" the Court below refused to strike it down.

26. In para-7 of the plaint, though the first defendant sought deletion of second and last sentences, the Court below only allowed deletion of the second sentence - "The defendant No.2 is a handpicked person of defendant No.3" and retained the last sentence.

27. The defendant No.3 though sought deletion of paragraph Nos.9 and 10, the Court rejected the said request.

28. The Court below, however, ordered deletion of the entire paragraph No.11, at the instance of the defendants 1 and 2, which reads thus :

"That the defendant No.3 namely Sri Dr. A.C. Muthaiah is an Industrialist and a controversial person. The defendant No.3 is thoroughly incompetent to hold the position of President of a prestigious organizations like BCCI. He has been investigated by the CBI/Police on several occasions in most controversial cases. That the learned special Judge, CBI Court, Chennai has recently directed framing of charges against the defendant No.3 in pending criminal matters under the Prevention of Corruption Act 1988 (in short called as P.C. Act, 1988).He has never played first class cricket in his lifetime. Because of this he cannot understand the commitment, determination, hardwork, emotions of the cricket player.

29. Though paragraph No.12 in its entirety was sought to be deleted at the instance of defendants 1 and 2, which reads thus:

"That the defendant No.3 carries the personal grudge against the plaintiff. As a member of BCCI he displayed unhappiness more particularly when the plaintiff

was reappointed as Captain (of the Indian National Cricket Team), the Court below declined to delete the same.

30. The effort made by this Court in narrating instances is only to appreciate whether the Court below is justified in deleting certain paragraphs from the pleadings of the plaintiff.

31. At this stage, it is necessary to refer to the provisions of Order 6 Rule 16 CPC, which provide that the Court may at any stage of the proceedings order striking out of the pleadings which may be (a) unnecessary, scandalous, frivolous or vexatious or; (b) which may tend to prejudice, embarrass or delay the fair trial of the suit or; (c) which is otherwise an abuse of the process of the Court.

32. Applying the broader principles emerging under Order 6 Rule 16 CPC in the light of the relief claimed by the plaintiff in his suit, I am of the considered view, that in the relief (c) and (d), the Civil Courts have no powers to grant a decree for enforcement of breach of fundamental right of any citizen unless the Parliament confers such a power on the Civil Courts. Similarly, the plaintiff has made personal allegations against the defendants 2 and 3 which appear to be scandalous and unnecessary having regard to the nature of relief claimed by him. In Paragraphs 29 it is mainly pleaded that the findings of the CBI is absolutely arbitrary, unconstitutional and violates the fundamental right of equality as provided under Article 14 of the Constitution of India. In paragraphs 36 and 37 it is pleaded that the impugned actions of the defendants are in gross violation of the relevant rules and regulations of defendant No.1 and Articles 14, 16, 19(1) (c), (g) and 21 of the Constitution of India. As indicated above, the corresponding relief based on these paragraphs is clause(c) and (d) of paragraph 43 which is in the nature of enforcement of fundamental rights, which cannot be ordered by the Civil Courts and therefore, those sentences in the said paragraphs were rightly ordered to be deleted by the Court below. Under Article 32(3) of the Constitution of India, the Parliament may by law empower any other Court to exercise within a local limit of its jurisdiction to all or any of the powers exercisable by the Supreme Court under clause (2) of Article 32 of the Constitution of India. Article 32 provides right to move the Supreme Court by appropriate proceedings for the enforcement of fundamental rights conferred under Part-III which is guaranteed to Indian citizens. Nothing is placed before this Court by the counsel for the petitioner-plaintiff that ordinary Civil Courts are also empowered by an Act of Parliament to redress in a case of infringement of fundamental rights brought to their notice.

33. Though counsel for the petitioner-plaintiff contended that as provided u/s 34 of the Specific Relief Act, 1963, a Civil Court is empowered to pass a declaratory decree, but however, as the consequential relief is in the nature of enforcement of fundamental rights, such relief could not be granted by the Civil Courts unless they are authorized to do so.

34. In this case, admittedly, the plaintiff has sought not only declaration but in

the nature of further relief seeking enforcement of the alleged infringement of fundamental rights as guaranteed under Articles 14, 16, 19(1)(e), (g), 20(3) and 21 of the Constitution of India. In my considered view, the Civil Court is not empowered to grant such a relief. Therefore, the Court below is justified in deleting certain words/sentences appearing in paragraph Nos. 29, 36 and 37 and the last portion of the prayer in clause (c) of paragraph 43 from the words "violative of the principles of natural justice and Articles 14, 16, 19(1)(e), (g), 20(3) and 21 of the Constitution of India.

35. Paragraph-5 pertains to serious allegations against the mismanagement, corruption against BCCI and about the tendency of a Writ Petition on that aspect before the Delhi High Court. Tendency of writ petition before the Delhi High Court on the question of corruption and mismanagement of BCCI is not at all relevant to decide an issue in the present proceedings where the plaintiff is questioning the life ban imposed on his cricketing career. Therefore, the Court below has rightly ordered to delete the said paragraph in its entirety.

36. Insofar as paragraph No.7 is concerned, the sentence "that the second defendant is a hand-picked person of the defendant" is ordered to be struck off on the ground that it is unnecessary by the Court below. The Court below is justified in striking this sentence as the connected pleading in paragraph-6 has been retained which would, if proved, suggest bias against the plaintiff by the third and second defendants.

37. Insofar as paragraph No.11 is concerned wherein personal allegations are made against Dr. A. C. Muthaiah - third defendant in the suit. These allegations are personal in nature as the Court is not concerned whether he is mired in controversy or whether charges are framed against him under Prevention of Corruption Act in Special Court at Madras, inasmuch as they are not relevant for the relief sought in the suit by the plaintiff. Therefore, I am of the view, the Court below is justified in ordering striking down the said paragraph in its entirety.

38. In Paragraph No.22, the following sentences viz., "After being appointed as Commissioner, the defendant No.2's sole aim was to seek cheap popularity at the cost of self-respect, prestige of players and the sport of cricket on the whole. That immediately after the meeting between the defendant No.2 and the plaintiff, the defendant No.2 held a press conference and made palpably false statements to the press/media persons who were sitting outside, who were not permitted into the room" were ordered to be deleted on the ground that they are vexatious. I am of the view, the Court below is justified in ordering so inasmuch as the plaintiff did not question the appointment of the 2nd defendant as Commissioner of Enquiry when he was so appointed and also in view of the relief claimed by him in the suit, the only aspect to be decided is whether the second defendant has followed the established procedure while conducting the enquiry against the plaintiff or is there any deviation of the principles of natural justice.

39. On behalf of the petitioner-plaintiff it is contended that there is a service contract between the plaintiff and the first defendant and therefore, the plaintiff is entitled to move the Civil Court seeking redressal of his grievances for violation of his rights under Article 311 of the Constitution of India in view of the decision of the Supreme Court cited (3) supra. I am of the view, this submission is untenable inasmuch as Article 311 of the Constitution of India provides a mechanism for redressal of grievances of persons who are members of a Civil Service of Union of India or of civil servant of a State or holds a civil post under the Union or a State. As the petitioner is not holding any of these posts but only has entered into a private contract with the first defendant on certain terms and conditions to play cricket matches for the Indian Team for which certain amount of remuneration per match is paid, the petitioner is not entitled to invoke the provisions of Article 311 of the Constitution of India.

40. Though it is contended on behalf of the petitioner that the Civil Court instead of ordering the plaintiff to delete certain paragraphs, ought to have stated the case and referred the matter for the opinion of the High Court u/s 113 of CPC, I am not inclined to accept the same having regard to the proviso appended to Section 113 of CPC which postulates that when there is a question before the Civil Court relating to the validity of any Act, Ordinance or Regulation or any provision of an Act which in its opinion is invalid or become inoperative but has not been declared by the High Court as such, then only the Civil Court may state the case and refer the matter for the opinion of the High Court. In this case, admittedly, no issue is involved in the present proceedings relating to the validity of any Ordinance, Regulation or any Act or any provision of any Act which has become invalid but which has not been declared as such by the High Court necessitating the Civil Court to refer the matter to the High Court for its opinion. Having regard to the pleadings in the plaint and in the light of the relief claimed by the plaintiff, no such issue, prima-facie, appears to be involved in the proceedings requiring the opinion of the High Court. I, therefore, reject the contention of the counsel for the petitioner in this regard.

41. Having regard to my discussion in the foregoing paragraphs and on a careful scrutiny of the averments made in the pleadings by the plaintiff in the background of the relief sought by him, I am of the considered view, the Court below is justified in ordering the plaintiff to strike down certain paragraphs on the ground that they are unnecessary, scandalous, frivolous and vexatious.

42. However, on a careful scrutiny of the impugned order under challenge, I am of the view, one or two minor errors which have crept in the order impugned could be rectified. In paragraph-43 clause (b) of the relief portion, though the entire prayer under the said clause was sought to be deleted by the defendants, the Court below only ordered the plaintiff to strike down the last word "ultra vires". I am persuaded to agree with the submissions of the learned counsel for the plaintiff that the said word need not be struck off. Accordingly, I hold that the last word "ultra vires" under clause (b) of Paragraph-43 shall be retained. Clause

(b) of Paragraph-43 shall now be read as "And by declaring the appointment of defendant No.2 and report drawn up by him as null and void, contrary to the established procedure and ultra vires."

43. The Court below has also ordered the plaintiff to strike down the words "violative of principles of natural justice and Articles 14, 16, 19(1)(e), (g), 20(3) and 21 of the Constitution of India" appearing in clause (c) of the relief portion of Paragraph 43. I am of the view, the Civil Court shall be entitled to go into the question as to whether there is any violation of the principles of natural justice by the defendants as alleged by the plaintiff, while granting relief in the suit. Therefore, I hold that in clause (c) of Paragraph-43 of the relief portion, the words "violative of principles of natural justice" could be retained. Now, clause (c) of Paragraph-43 shall read as "And by declaring the proceedings of the first defendant dated 5-12-2000 punishment and imposition of life ban thereunder duly communicated by the Secretary through his letter dated 11-12-2000 as being null and void, contrary to rules and regulations of BCCI, violative of principles of natural justice."

44. For the foregoing reasons, I do not see any material irregularity or jurisdictional error in the impugned common order warranting interference by this Court u/s 115 of CPC. Accordingly, these three CRPs are dismissed, however, with slight modifications as indicated above.

45. After conclusion of submissions on behalf of the plaintiff, learned counsel for the plaintiff pleaded before this Court that the Court below be directed to dispose of the suit O.S.No.10 of 2001 on priority basis as time is the crucial factor and if the plaintiff succeeds in the suit, he may not be in a position to play cricket again after a particular period. Having regard to the submissions and in the facts and circumstances of the case, I think ordering earlier disposal of the suit may not cause prejudice to the contesting respondents/defendants. Agreeing to the request, I direct the Court below to dispose of the suit O.S.No. 10 of 2001 on priority basis, if necessary, by fixing day-to-day hearing. The respondents-defendants shall file their written statements to the amended plaint within a period of three weeks from the date of presentation of the amended plaint by the plaintiff. Thereafter, the Court below shall frame necessary issues and proceed to dispose of the suit as expeditiously as possible, preferably on or before the end of October, 2002. This Court desires the parties to the suit proceedings, to cooperate with the Court below so that the suit could be disposed of within the time frame fixed by this Court.