

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

RSA.No. 406 of 2015

**JUDGMENT DATED 20-11-2014 IN AS 12/2014 OF SUB COURT, MANJERI
JUDGMENT DATED 19-03-2010 IN OS 225/2006 OF MUNSIFF COURT, MANJERI**
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APPELLANT(S)/APPELLANT/PLAINTIFFS:

**SOUMENDRANATH, AGED 74 YEARS,
S/O.V. VASUDEVA MENON, CHENNAMANGALAM HOUSE, ARUKIZHAYA,
MANJERI AMSOM, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.K.DILIP**

RESPONDENT(S)/RESPONDENTS/DEFENDANTS:

- 1. V.MANOCHARAN,
AGE NOT KNOWN, PRESIDENT, COSMOPOLITIAN CLUB,
COSMO JUNCTION, POKOTTUR ROAD,
MANJERI AMSOM DESOM, PIN - 676 121, ERNAD TALUK.**
- 2. M.S.RAMAKRISHNAN,
AGE NOT KNOWN, SECRETARY, COSMOPOLITIAN CLUB,
COSMO JUNCTION, POKOTTUR ROAD, MANJERI AMSOM,
DESOM, PIN - 676 121, ERNAD TALUK.**
- 3. COSMOPOLITIAN CLUB,
REP. BY ITS SECRETARY, COSMO JUNCTION, POKOTTUR ROAD,
MANJERI AMSOM, DESOM, PIN - 676 121, ERNAD TALUK.**
- 4. THE DISTRICT REGISTRAR,
DISTRICT REGISTRAR'S OFFICE, MALAPPURAM
MALAPPURAM AMSOM DESOM. PIN - 676 505, ERNAD TALUK.**

**R1-R3 BY ADV. SRI.M.A.ABDUL HAKHIM
R4 BY GOVERNMENT PLEADER SRI.JOBBY JOSEPH**

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON
29-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

P.B.SURESH KUMAR, J.

R.S.A. No.406 of 2015

Dated 29th September, 2015.

J U D G M E N T

The plaintiff in a suit for declaration and injunction is the appellant.

2. The plaintiff is a member of the third defendant club, which is a society registered under the Societies Registration Act, 1860. On 21/9/2006, a special meeting of the general body of the third defendant club ("the club" for short) amended the bye-law of the club and a provision was introduced in the bye-law enabling the general body of the club to sell, mortgage or otherwise deal with the immovable properties of the club, for the purpose of acquiring other suitable and more beneficial land or property or to provide more facilities. The suit was filed, seeking among others, a declaration that the decision taken in the meeting of the general body of the club on 21/9/2006 is illegal. Consequent reliefs were also sought in the suit. The defendants contended

that the amendment made to the bye-law of the club on 21/9/2006 is valid. The trial court, on an elaborate consideration of the materials on record, found that the amendment made to the bye-law of the club in the meeting of the general body held on 21/9/2006 is valid and consequently dismissed the suit. The appellate court, on a re-appraisal of the materials on record, confirmed the decision of the trial court. Hence this second appeal challenging the concurrent decisions of the courts below.

3. Heard the learned counsel for the appellant.

4. The objects of the club as contained in clause 2 of the bye-law of the club reads thus:

“2. Objects of the club

(a) The objects of the club shall be to provide facilities for recreation for the members of the club, to promote charitable, cultural, social, educational and physical activities, to promote fine arts for and diffusion of useful knowledge among the members and public.

(b) To acquire by purchase or otherwise property immovable or movable and other rights and privileges necessary for and conducive to the realization of its aims and objectives.

(c) To construct and maintain buildings necessary or

convenient for the club and its activities.

(d) To do all such other acts as are incidental or helpful in the attainment of the noble aims and exalted objects of the club.”

Clause 13(d) of the bye-law of the club provides that any amendment to the bye-law shall be made only at a special meeting of the general body and in accordance with the provisions of the Societies Registration Act. Clause 13(f) introduced to the bye-law of the club by way of amendment in the special meeting of the general body held on 21/9/2006 reads thus:

“To achieve the objects of the club, or to enhance the facilities of the club or for the welfare and benefit of the club, with a majority decision of the general body any land or other property belonging to the club with the buildings if any therein can be assigned, mortgaged or otherwise dealt with to acquire other suitable and more beneficial land or property and to provide more facilities.”

There is no dispute to the fact that the special meeting of the general body held on 21/9/2006 was a meeting convened in accordance with the provisions of the Societies Registration Act,

1860. The contention of the plaintiff is that acquisition of immovable properties by the club being one of the objects of the club, a provision conferring power on the general body of the club to sell an immovable property acquired by the club would amount to a variation of the object of the club and therefore an amendment for the said purpose can be introduced to the bye-law of the club only in accordance with Section 12 of the the Societies Registration Act, 1860. True, the decision taken in the meeting of the general body of the club held on 21/9/2006 does not conform to Section 12 of the Societies Registration Act, 1860. As such, the question to be considered is as to whether the decision taken in the special meeting of the general body of the club held on 21/9/2006 would amount to a variation of the objects of the club. According to me, clause 13(f) introduced by way of amendment to the bye-law of the club does not amount to a variation or alteration of the bye-law of the club at all. Merely for the reason that the acquisition of immovable property is stated to be one of the objects of the club, it cannot be contended that

authority, if any, given to the general body to sell, mortgage or otherwise deal with the immovable properties for acquiring better properties for the club to achieve its objects would amount to a variation or alteration of the objects of the club. The impugned decisions, in the circumstances, are in order. There is no question of law, much less any substantial question of law, involved in this matter. The second appeal, in the circumstances, is devoid of merits and the same is accordingly dismissed *in limine*. All the interlocutory applications in the appeal are closed.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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(true copy)