

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] No.668 of 2016

and

C.M.P.No.3460 of 2016

1. K.A.Balasubramanian Nadar
2. G.Senthil Nadar
3. S.Ravindran Nadar

... Petitioners

Vs

Mamallapuram Vattara Nadar Sangam
Represented by its President
M.S.Muthuvel Nadar,
S/o.Mariappa Nadar,
Regd.No.55/96,
East Coast Road, Outer Ring Road,
Mamallapuram 603 104,
Kancheepuram District

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to strike off the plaint in O.S.No.226 of 2014 from the file of the Court of the District Munsif cum Judicial Magistrate, Thirukazhukundram.

For Petitioner : Mrs.C.R.Rukmani

ORDER

The defendants in the original suit O.S.No.226 of 2014,

instituted on the file of the District Munsif-cum-Judicial Magistrate, Thirukazhukundram by the respondent herein, are the petitioners in the present Civil Revision Petition filed under Article 227 of the Constitution of India.

2. The above said suit came to be filed in the name of Mamallapuram Vattara Nadar Sangam represented by its President showing the said Sangam as a registered Sangam with Registration No.55 of 1996, for a permanent injunction restraining the petitioners herein / defendants from interfering with the administration and management of the respondent Sangam and for costs.

3. The only ground on which the petitioners seek an order striking off the plaint is that the suit has been filed in the name of a non existent society. In order to substantiate the contention of the petitioners, they have chosen to produce a copy of the Tamilnadu Gazette dated 09.03.2005. In the said gazette, a notice has been published by the District Registrar, Tiruchirapalli to the effect that for the notice under Section 44(1) of Tamilnadu Societies Registration Act, 1975 no explanation was received in time and hence steps would be taken for removing the name of the plaintiff Sangam from the Register

of Societies under Section 44(2) of the said Act. The same is only a notice and an order removing the name of the Sangam from the register should have followed. No such order has been produced by the petitioners. The mere fact that such a notice came to be issued will not give rise to an inference that the name of the Sangam has actually been removed from the Register of Societies. Even if such removal is made, there are provisions for restoration of the name in the register. No document was produced by the petitioners to show that the plaintiff's Sangam is not a registered Sangam as on the date of the filing of the suit. Moreover, disputed questions cannot be the basis on which the plaint can be struck off. The petitioners / defendants can raise it as a plea of defence in the written statement and seek adjudication. Instead of doing it, the petitioners have chosen to file the present revision without supported by clinching document. The revision does not even merit admission and the same deserves to be dismissed.

4. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

02.03.2016

Index: Yes/No

Internet: yes/No
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P.R.SHIVAKUMAR, J

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To

The District Munsif cum Judicial Magistrate,
Thirukazhukundram.

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