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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2016

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P. (MD) No.1518 of 2016

and

C.M.P. (MD) No.8809 of 2016

1. The Ilayangudi Muslim Educational Association,
Through its Secretary,
T.S.H. Musafer Abdul Rahuman,
Ilayangudi Town & Taluk,
Sivagangai District.

2. T.S.H.Musafer Abdul Rahuman ..Petitioners/Petitioners/
Defendants

Vs.

M.T.S.Dhulkarunai .. Respondent/Respondent/
Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the petition, order and decreetal order dated 22.06.2016 passed by the District Munsif cum Judicial Magistrate, Ilayangudi in I.A.No.170 of 2016 in O.S.No.48 of 2015 and to allow the Civil Revision Petition.

For Petitioners : Mr.R.Devaraj
For Respondent : Mr.R.Vijayakumar
for Mr.P.Subbaraj

ORDER

This Revision is directed against the order passed by the District Munsif cum Judicial Magistrate Court, Ilayangudi, in I.A.No.170 of 2016 in O.S.No.48 of 2015, dated 22.06.2016.

2. The respondent herein filed the suit in O.S.No.48 of 2015 before the District Munsif cum Judicial Magistrate Court, Ilayankudi for declaration to declare the order of vacation letter dated 25.07.2015 issued by the petitioners' Association terminating the membership of the respondent from the council of management of the petitioners' Association is void-ab-initio, had in law, arbitrary, illegal and clear violation of vales as adumbrated in vole 26 of the rule of the petitioners' association and consequently for permanent injunction.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The respondent/plaintiff also filed written statement before the Trial Court and the suit is taken up for trial and the



plaintiff evidence was over and thereafter, the suit was posted for evidence of the defendants side. At this stage, the Revision petitioners filed an application before the Trial Court, by raising the jurisdiction of the Civil Court and the petitioners/defendants filed the Additional Written statement to receive the additional statement filed in the above suit. The said application in I.A.No.170 of 2016 in O.S.No.48 of 2015 was dismissed by the Court below. The petitioners have preferred the Civil Revision petition before this Court.

4. Per contra, the learned counsel for the respondent would submit that he strongly objected for allowing the Civil Revision petition. He further submitted that the Trial court considered the submission of the petitioners and rightly dismissed the Interim application. Therefore, there is no warrant to interfere with the order passed by the Trial Court.

5. It is an admitted fact that the trial was commenced in the suit and the plaintiff evidence was closed. Thereafter, the case was posted for cross examination of defendants' witness. At this stage, the petitioners filed the present application in I.A.No.170 of 2016 in O.S.No.48 of 2015 before the District Munsif-cum-Judicial Magistrate Court, Illayankudi.

6. The Revision petitioner has filed the Additional Written statement before the Trial Court in the aforesaid I.A., by raising the ground that the Court has no jurisdiction to entertain the suit. But the Trial Court has dismissed the application for the reason that the said application was filed belatedly.

7. It is well settled principle of law that the parties can raise the issue of jurisdiction at any stage. Therefore, the Trial Court rejected the application on the ground of belated is unsustainable in Law. Therefore, this Court is inclined to interfere with the order passed by the Trial Court in I.A.No.170 of 2016 in O.S.48 of 2015 is liable to be set aside.

8. Considering the above facts and circumstances and in the interest of justice, I am inclined to pass the following order:-

1. *The impugned order passed in I.A.No.170 of 2016 in O.S.No.48 of 2015 is set aside and the Revision petition is allowed. The Trial Court can receive the additional written statement filed by the defendant. Further, the learned District Munsif cum Judicial Magistrate, Ilayangudi, is directed to dispose of the suit in O.S.No.48 of 2015 on merits and in accordance with law as expeditiously as possible.*



2. It is open to the parties concerned to raise all the objections at the time of the trial.

No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar(Crl.side)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To
The District Munsif cum Judicial Magistrate,
Ilayangudi.

+1cc to M/s.P.Subbaraj, Advocate in SR.52262
+1cc to M/s.R.Devaraj, Advocate in SR.52538

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