

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**CRP.(PD). No.4391 of 2017
and C.M.P.No.20884 of 2017

K.Stephenraj

..Petitioner

Vs.

1.Ceylon India Mission, Bangalore,
Rep by its General Secretary,
Benjamin Timothy,
S/o.Mahesh,
Door No.140A, Gounthapadi Road,
Sathy Nagar Post, Appakoodal,
Bhavani Taluk, Erode District.

2.Ceylon India Mission, Bangalore,
Rep by its Director,
L.Peter,
Door No.8/46, Gounthapadi Road,
Sathy Nagar Post, Appakoodal,
Bhavani Taluk, Erode District.

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against order and decretal order dated 03.10.2017 passed by the District Munsif Court, Sathyamangalam in I.A.No.201 of 2017 in O.S.No.207 of 2016.

For petitioner : Mr.R.Sivakumar

ORDER:

According to the revision petitioner, the respondents have filed a suit in OS.No.207 of 2016 for declaration and injunction. In the aforesaid suit, after receipt of summons from the trial court, the revision petitioner has filed an IA.No.201 of 2017 under Order 7 Rule 11 (a) and (d) of the Civil Procedure Code to reject the plaint. According to the revision petitioner, there is no such resolution passed by the Board of Directors authorising the Chairman to handle the cases regarding the Mission properties situated in Tamil Nadu, Andhra, Karnataka and several other parts of India as stated by the plaintiffs / respondents who are representing the plaintiff companies. However, the said application was erroneously dismissed by the court below. Hence, the revision petitioner has filed the present Civil Revision Petition before this Court.

WEB COPY

2. The learned counsel for the revision petitioner would submit that Section 291 of the Companies Act, 1956 clearly states that resolution should be passed by the Board of Directors to authorise a person for filing a suit. Here, there is no such resolution

has been passed by the Board of Directors. Therefore, Order 7 Rule 11 would attract and the suit is liable to be dismissed. It is useful to extract Order 7 Rule 11 of the Civil Procedure Code which clearly states as follows.

"Rejection of plaint – The plaint shall be rejected in the following cases:-

a) where it does not disclose a cause of action.

b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

d) where the suit appears from the statement in the plaint to be barred by any law.

(Provided that the time fixed by the Court

for the correction of the valuation or supplying the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff)."

3. In the present case on hand, the revision petitioner has filed the instant application disputing the *locus standi* of the plaintiff who is representing the plaintiff company without having proper resolution ought to have been passed by the Board of Directors. The said dispute cannot be decided at this stage and the same can only be decided only after adducing the necessary documentary evidence before the trial court. On the aforesaid ground, the court below cannot entertain the application under Order 7 Rule 11 of the Civil Procedure Code and has rightly rejected the application. There is no prima facie case is made out to entertain the Civil Revision Petition.

4. However, it is open to the revision petitioner to raise this issue before the court below at appropriate stage in accordance with law.

5. In view of the above facts and submissions, the Civil Revision Petition fails and accordingly, the same is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

05.12.2017

Speaking / Non Speaking order
Index : Yes/No
Internet : Yes/No
lok



WEB COPY

D.KRISHNAKUMAR.J,

lok

To

The District Munsif Court,
Sathyamangalam.



CRP.(PD). No.4391 of 2017
and C.M.P.No.20884 of 2017

WEB COPY

05.12.2017