

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.287 OF 2018

Rotary Club of Pune Parvati	.. Applicant
Vs.	
Kishor Sharad Bakhale	.. Respondent

Mr.R.G. Govilkar i/by Govilkar & Associates for the applicant.
Mr.Chaitanya Nikte for the respondent.

CORAM : R.D. DHANUKA, J.
DATE : 1st October 2018

P.C.:

. Papers are allowed to be produced at 3.00 p.m.

2. By this application filed under Section 115 of the Code of Civil Procedure, 1908, The applicant has impugned the order dated 12th March 2018 passed by the learned trial Judge below Exhibit-67 dismissing the suit on the ground that the applicant was not a registered organisation under any provisions of law but is an Association of Persons (AOP).

3. A perusal of the record indicates that the applicant had filed an application on 15th April 2014 inter alia praying for dismissal of the suit on the ground that the same was not maintainable in view of the fact that the applicant has not a registered body but was association of persons. The said application (exhibit-16) came to be dismissed by an order dated 22nd November 2014 passed by the learned trial Judge. The

learned trial Judge dealt with the submission of the applicant that the applicant was not a registered organisation and dismissed the said application. Admittedly the said order dated 22nd November 2014 passed by the learned trial Judge has not been impugned by the applicant.

4. The original plaintiff thereafter applied for amendment to the plaint and applied for substitution of the defendant nos.2 and 3 with the new office bearers of the defendant no.1. The said application was also allowed by the learned trial Judge by an order dated 17th March 2015. The said order also has not been impugned by the applicant.

5. The applicant thereafter filed fresh application on 6th April 2016 raising the same issue which was raised in the application dated 15th April 2014 which was already rejected and not impugned by the applicant. The learned trial Judge has rejected the said application by an order dated 12th March 2018.

6. A perusal of the record further indicates that the original plaintiff had also filed an application under Order I Rule 8 of the Code of Civil Procedure, 1908 for permission to conduct the suit in representative capacity. The said application was also vehemently opposed by the applicant. By an order dated 17th March 2015, the learned trial Judge kept the said application on record. The learned counsel for the original plaintiff states that the said application under Order 1 Rule 8 of the Code of Civil Procedure, 1908 was subsequently allowed by the learned trial Judge. Even the said order also has not been impugned by the applicant.

7. In my view, since the orders passed by the learned trial Judge initially rejecting the applications for dismissal of the suit and thereafter the application for allowing the amendment has not been impugned by the applicant, those orders have attained finality. Be that as it may, the learned trial Judge has allowed the application filed under Order I Rule 8 of the Code of Civil Procedure, 1908. Second application for similar relief thus filed by the applicant on 6th April 2016 was clearly not maintainable and has been rightly rejected by the learned trial Judge by recording detailed reasons on 12th March 2018. In my view, civil revision application is thus thoroughly misconceived and is accordingly dismissed with costs quantified at Rs.50,000/- which shall be paid by the applicant to the respondent within one week from today.

R.D. DHANUKA, J.