



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.1868 of 2018

V.N.Sivakumar

.. Revision Petitioner/
Petitioner / Plaintiff

vs.

1.P.Pandiyarajan
2.K.P.Kandasamy
3.The District Registrar,
Madurai South,
Palace Road,
Madurai - 625 001.

.. Respondents /Respondents/
Defendants

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned III-Additional Sub Judge, Madurai, to expedite the proceedings pending in I.A.No.193 of 2018 in O.S.No.470 of 2018 within a period stipulated by this Court.

For Petitioner : Mr.N.Sathish Babu
For Respondent No.1 : Mr.B.Rooban
For Respondent No.2 : Mr.K.Govindarajan
for Mr.P.Thilakkumar
For Respondent No.3 : Mr.M.Murugan
Government Advocate

ORDER

This Civil Revision Petition has been filed by one V.N.Sivakumar, to expedite the proceedings in I.A.No.193 of 2018 in O.S.No.470 of 2018 on the file of the III-Additional Sub Judge, Madurai.

2. This Court ordered notice to the respondents when the matter came up for admission.

3. The contesting private respondents entered appearance. The learned counsel appearing for the contesting respondents alleged that the revision petitioner had earlier filed a similar suit for the same relief and that he is indulging in forum shopping. Therefore this Court directed the learned counsel appearing for the revision petitioner to produce a copy of the plaint filed in the earlier suit.

4. Today, a comprehensive typedset of papers has been filed. It is seen that the petitioner herein has already filed



O.S.No.291 of 2018 before the District Munsif Court, Madurai Town. Para No.18 sets out the cause of action for the institution of the said suit as follows:

"18. The cause of action for the suit arose, on 15.04.2018 when the plaintiff given a paper publication in MALAIMURASU Tamil Daily to convene 51st Annual General Body Meeting, on 13.05.2018, the plaintiff and other executive committee members and office bearers are elected in the 51st AGM, on 13.05.2018 when the defendants are trying to interfere the 51st AGM and on 13.05.2018 when the Keerathurai Police personnel conducted enquiry and warned the defendants and subsequent dates the defendants trying to interfere the today affairs and the management of the plaintiff headed sangam and its school and on 15.05.2018 when the plaintiff filed FORM-VII with the District Registrar of Societies, Madurai to record the change of office bearers along with statement of accounts are all comes within the jurisdiction of this Hon'ble Court."

5. The prayer sought for in the said suit is for granting the permanent injunction restraining the defendants therein from interfering with the day-to-day affairs of the Management of Madurai Aruppukottai Nadar Uravinmurai-Girls Higher Secondary School Paribalana Sabai, having its office at No.3, Melathoppu, Keerathurai, Madurai. This Court compared the present plaint with the earlier plaint. The cause of action in Para No.20 in O.S.No.470 of 2018 on the file of the learned III-Additional Sub Judge, Madurai reads as follows:

"20. The cause of action for the suit arose, on 15.04.2018 when the plaintiff given a paper publication in MALAIMURASU Tamil Daily to convene 51st Annual General Body Meeting, on 13.05.2018, the plaintiff and other executive committee members and office bearers are elected in the 51st AGM, on 13.05.2018 when the defendants are trying to interfere the 51st AGM and on 13.05.2018 when the Keerathurai Police personnel conducted enquiry and warned the defendants and subsequent dates the defendants trying to interfere the today affairs and the management of the plaintiff headed sangam and its school and on 15.05.2018 when the plaintiff filed FORM-VII with the I st defendant circulated a letter to the Headmistress of the plaintiff own School and threaten her and attempted to disturb the peaceful administration of the sangam are all comes within the jurisdiction of this Hon'ble Court."



6. Except the last few lines, the cause of action in Para No.20 in the present plaint and Para No.18 of the earlier plaint are one and the same. The relief sought for in the present suit, namely, O.S.No.470 of 2018 is also for grant of permanent injunction restraining the respondents 1 & 2 herein from interfering with the day-to-day affairs of the said Sangam. The respondents 1 & 2 herein are figuring as defendants 3 & 11 in the earlier suit. Though in the second suit, the District Registrar has been made as a defendant, no relief has been sought against him.

7. This Court is therefore of the view that the very filing of O.S.No.470 of 2018 before the III-Additional Sub Judge, Madurai is an abuse of legal process. The revision petitioner having moved the District Munsif Court by filing O.S.No.291 of 2018 must prosecute the same to its logical conclusion. If some subsequent development has taken place, he can ask for amendment of the said plaint. The revision petitioner does not have a choice of filing a second suit, merely because subsequent development has taken place. This is all the more so because, the suit prayer in both the suits is one and the same.

8. In this view of the matter, eventhough it is the revision petitioner, who has come to this Court seeking a direction for a disposal of the IA filed by him in O.S.No.470 of 2018, since this Court has come to the conclusion that the very filing of the second suit, is an abuse of process, this Court strikes off O.S.No.470 of 2018 from the file of the III-Additional Sub Judge, Madurai.

9. This Civil Revision Petition is thus disposed of. No Costs.

Sd/-

Assistant Registrar (Crl-Side)

// True Copy //

Sub Assistant Registrar(CS-III)

To

1.The III-Additional Sub Judge,
Madurai.

2.The District Munsif,



3. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

WEB COPY

+ 1 CC TO MR.B.ROOBAN, ADVOCATE IN SR NO.83822
+ 1 CC TO MR.P.THILAKKUMAR, ADVOCATE IN SR NO.83826
+ 1 CC TO SPECIAL GOVERNMENT PLEADER, IN SR NO.84392

PJL
BU/PM/SAR-III:25.10.2018 : 4P/8C

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