

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice C.SARAVANAN

O.S.A.No.4 of 2019
and
C.M.P.Nos.81 and 87 of 2019

1.South Zone LIC Backward Classes
Employees' Federation
rep. by its President,
No.153, 10th Floor, Zonal Office,
LIC Building, Anna Salai, Chennai - 2.

2.A.Yoganathan,
President,
South Zone LIC Backward Classes
Employees' Federation,
No.153, 10th Floor, Zonal Office,
LIC Building, Anna Salai, Chennai - 2.

Appellants

Vs

Life Insurance Corporation of India
rep. by its Secretary (Estates),
153, 10th Floor, Zonal Office, LIC Building,
Chennai - 2.

Respondent

Appeal preferred under Order XXXVI Rule 1 of O.S. Rules r/w
Clause 15 of Letters Patent against the order dated 18.12.2018
made in A.No.9913 of 2018 in C.S.No.726 of 2018.

For Appellants .. Ms.Kanimozhi Mathi

For Respondent .. Mr.B.Mohan

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This Original Side Appeal is directed against the order
dated 18.12.2018 made in A.No.9913 of 2018 in C.S.No.726 of 2018.

2.The appellants being the defendants invoked Order 7 Rule 11 C.P.C. on the premise that no cause of action is made out notwithstanding the averments made in the plaint since it is the appellants who are in possession. If that possession is accepted, then the only remedy to the respondent/plaintiff is to invoke Prevention of Damage to Public Property Act.

3.We do not find any merit in this appeal. While invoking Order 7 Rule 11 C.P.C., the averments in the plaint are alone to be seen at this stage. While it is the case of the respondent that it is in possession, the appellants contend that the appellants are in possession. This is a matter to be decided by the Court at the appropriate time certainly not by invoking Order 7 Rule 11 CPC. Thus, we dismiss the Original Side Appeal, leaving all the issues open. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

mmi

To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

O.S.A.No.4 of 2019

SAI (CO)
GN(14/03/2019)

WEB COPY