

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP. (PD) .No.4559 of 2013

1. Gangavar Mahajana Sangam
Rep.by its Present Secretary,
No.8/29, New No.32,
Jamedar Street,
Coimbatore Town, Coimbatore.

2.C.S.Ramarkrishnan

3.K.Velusamy

4.Madhanagopal

5.C.S.Vijayan

6.R.Sundararajan

... Petitioners/Petitioners/Plaintiffs

Versus

1.R.Raju

2.A.Yusuf Sherif

... Respondents/Respondents/Defendants

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 05.08.2013 passed by the learned I-Additional District Munsif, Coimbatore in I.A.No.1001 of 2012 in O.S.No.736 of 2012.

For petitioners : Mr.L.Mouli

For Respondents : No Appearance

ORDER

The petitioners are the plaintiffs in O.S.No.736 of 2012 filed for permanent injunction.

2.Pending the suit, the respondents objected the suit stating that the suit is not maintainable. Hence, the petitioners filed the I.A.No.1001 of 2012, to grant permission and sanction to prosecute the suit in representing capacity, under Order I and Rule 8 read with 151 of CPC... Admittedly, the same is held to be maintainable. However, the said petition was dismissed. Hence, the Civil Revision Petition filed by the plaintiffs.

3.The learned counsel for the petitioner is present and notice was served to the respondent, but none entered appearance.

4. Admittedly, though the first respondent is the present secretary of the Sangam and respondents 2 to 6 are the members of the Sangam and they have not entered any sale agreement for the suit. Thus, the Trial Court has decided, based on the resolution, through signature by the Gangavar Mahajana Sangam, which was not a registered society and dismissed the said application. Thus, this Court is of the considered view that the suit is once held to be maintainable, it is erroneous to dismiss the said I.A.No.1001 of 2012 under Order I and Rule 8 of CPC.,.

5. After going through the averments made in I.A.No.1001 of 2012, the requirement of filing the suit in a representing capacity, as contemplated under Order I and Rule 8 of CPC., and the impugned order passed by the Trial Court is set aside. Hence, I.A.No.1001 of 2012 is allowed and consequently, the Civil Revision Petition is allowed.

7. The Trial Court is directed to frame necessary issues in the suit, within a period of three weeks from the date of receipt of a copy of this order and to dispose of the suit, within a period of twelve weeks thereafter. No costs.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

klt

To

The I-Additional District Munsif, Coimbatore

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NR (CO)
SP (05/03/2020)

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