

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.3986 of 2016

and

CMP.No.20173 of 2016

The Secretary,
Coimbatore Athar Jamath,
A.Shanawas,
S/o.Abdul Majith,
Coimbatore Athar Jamath Building,
Oppanakkara Street,
Coimbatore – 641 001.

... Petitioner

Vs.

1. M.S.Abdul Raseed
2. A.R.Mohammed Mustafa
3. A.r.Mohammed Kasim
4. S.Ajmal Shah

... Respondents

PRAYER: The Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decretal order dated 05.11.2016 made in I.A.No.922 of 2016 in O.S.No.670 of 2016 on the file of the Principal Sub Court, Coimbatore by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.P.M.Duraisamy (for R2)
: Not Ready in Notice (No Appearance)
(for R1, R3 and R4)

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.922 of 2016 in O.S.No.670 of 2016 dated 05.11.2016 on the file of the learned Principal Sub Judge, Coimbatore, thereby, dismissing the petition filed for rejection of plaint.

2. The petitioner is the defendant and the respondents are the plaintiffs. The respondents filed a suit for declaration and injunction. While pending the suit, the petitioner filed a petition for rejection of plaint on the ground that the suit is not filed for the purpose of implementation of the scheme or seeking amendment to the scheme or challenge the scheme framed by this Court is not maintainable before the trial Court. Even seeking amendment to the scheme or any disputes with regard to the scheme, the respondents have to file an application in O.S.No.63 of 1943 and not a fresh suit. Therefore, the suit itself is not maintainable.

3. On a perusal of the plaint, the suit is filed for declaration to declare the resolution dated 16.06.2015 of the petitioner's Jamath as null and void. Further, he prayed for restraining the petitioner from participating in the

day-to-day affairs of the Jamath and also in the Annual General Body Meeting till the disposal of the suit. Therefore, no relief is sought for in respect of any scheme registered which was already framed in O.S.No.63 of 1943. Therefore, the suit is very much maintainable and the Court below rightly dismissed the petition. As such, this Court finds no irregularity or infirmity in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

24.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

The Principal Sub Judge, Coimbatore.

WEB COPY

G.K.ILANTHIRAIYAN,J.

Kv



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