



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 17TH DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE P.VELMURUGAN

A.No.3320 of 2021

in

C.S.No.37 of 2021

1. Mr.RM.Veerappan
S/o Sri Ramasamy Chettiar,
Sarojini Apartments,
A2, First Floor, Sarojini Street,
T.Nagar, Chennai - 600 017.

2. Mr.V.Jayaraman,
S/o Sri vaidya Subramania Iyer,
No.131, Chamiers Road,
Chennai - 600 028.

.. Plaintiffs

-Vs-

1. Rajah Annamalaipuram Sri Ayyappa
Swamy Temple Trust,
Having its registered office at
No.82, Santhome High Road,
Chennai - 600 028.
Represented by its secretary Sri AR Ramasamy Chettiar

2. Sri.M.A.M.R.Muthiah,
Chettinad House,
Rajah Annamalaipuram,
Chennai - 600 028.

3. K.Chidambaram,
No.15, 7th Cross Street,
Shastri Nagar,
Chennai - 600 020.

.. Defendants

**A.No. 3320 of 2021:-**

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K.Chidambaram,
No.15, 7th Cross Street,
Shasthri Nagar,
Chennai - 600 020.

...Applicant/3rd Defendant

-VS-

1. Mr.RM.Veerappan
S/o Sri Ramasamy Chettiar,
Sarojini Apartments,
A2, First Floor, Sarojini Street,
T.Nagar, Chennai - 600 017.

2. Mr.V.Jayaraman,
S/o Sri vaidya Subramania Iyer,
No.131, Chamiers Road,
Chennai - 600 028

...Respondents 1 & 2/Plaintiffs.

3. Rajah Annamalaipuram Sri Ayyappa
Swamy Temple Trust,
Having its registered office at
No.83, Santhome High Road,
Chennai - 600 028.
Represented by its secretary Sri AR Ramasamy Chettiar

4. Sri.M.A.M.R.Muthiah,
Chettinad House,
Rajah Annamalaipuram,
Chennai - 600 028.

...Respondents/3 and 4 Defendants

Application praying that this Hon'ble Court be pleased to reject the

above suit as there is no cause of action to bring this suit with exemplary

costs.



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This Application having been heard on 15.03.2022 in the presence of Mr.T.Mohan for Mr.Abhinav Parthasarathy, Advocates for the Applicant herein and Mr.R.Srinivas for M/s. S.Sithirai Anandam, Advocate for the respondents 1 & 2 herein and Mr.AR.L.Sundaresan, Senior Counsel for M/s.A.L.Ganthimathi, Advocates for the 3rd respondent herein and Mr.T.Balaji, Advocate for the 4th respondent herein and upon reading the judges summons and the affidavit of K.Chidambaram filed herein and having stood over for consideration till this date and coming on this before this court for orders in the presence of the said advocates for the parties hereto and the learned counsel for the respondents/Plaintiffs having submitted that the Plaintiffs have got a perfect cause of action to file a suit and there is no legal impediment to file the suit, therefore, the question of maintainability of the Suit does not arise, further, the learned counsel for the applicant/ 3rd defendant having submitted that the applicant/3rd defendant has also not pointed out that the Suit is barred under which provision of law and this Court having observed that the plaint discloses cause of action and the applicant/3rd defendant has not established any reason to reject the plaint as contemplated under order VII Rule 11 CPC. , and



It is ordered as follows:-

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That the A.No.3320 of 2021, be and is hereby dismissed.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH
BHANDARI CHIEF JUSTICE, HIGH COURT AT MADRAS
AFORESAID, THIS THE 17TH DAY OF MARCH 2022.

Sd./-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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04.04.2022

A.No.3320 of 2021
in
C.S.No.37 of 2021

ORDER :-

DATED :17.03.2022

THE HON'BLE MR. JUSTICE
P.VELMURUGAN

FOR APPROVAL: 21.04.2022

APPROVED ON: 21.4.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 15.03.2022	Delivered on 17.03.2022
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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

A.Nos.3320 of 2021
in
C.S.No.37 of 2021

Civil Suit No.37 of 2021 is filed under Order VII Rule 1 of CPC R/W Order IV Rule 1 of O.S. Rules by the plaintiffs to direct the first defendant to forthwith convene the General Body Meeting of the first Defendant Society for the purpose of considering and approving the annual reports and accounts of the first defendant society by the general body of the first defendant and for conducting election of the Committee Members and office bearers of the first defendant society and fulfilling all statutory and administrative procedures and measures and direct the defendants to pay the plaintiffs the costs of the Suit.

2. After filing of the Suit, the applicant/3rd defendant has taken out an application in A.No.3320 of 2021 seeking to reject the plaint in

C.S.No.37 of 2021, under Order VII Rule 11 of CPC read with Order XVI

Rule 8 of Madras High Court Original Side Rules.



3. The third respondent/first defendant, Rajah Annamalaipuram Sri Ayyappa Swamy Temple Trust, a society registered under the Societies Registration Act 1860, is governed by the Tamil Nadu Societies Registration Act, 1975 and the memorandum and bylaws of the society. The temple was constructed and founded by one Dr.M.A.M.Ramaswamy, who had held the post of President in the society, until his demise on 02.12.2015. No Annual General Meeting (AGM) has been convened subsequent to 30.07.2016. Even the term of the office bearers elected in the election held on 30.07.2016, which was for three years had lapsed on 29.07.2019, but they are still continuing in office. However, in terms of Section 15 of the Tamil Nadu Societies Registration Act, the Executive Committee Members can continue in office for not more than 3 years though they are eligible for re-election. Therefore, the Plaintiffs have filed the Suit in C.S.No.37 of 2021 directing the third respondent/first defendant to forthwith convene the General Body Meeting of the society for the purpose of considering and approving the annual reports and account of the society and for conducting election of the Executive Committee Members and office bearers of the society, against which the applicant/third defendant has filed the present application in A.No.3320 of 2021, under Order VII Rule 11 CPC seeking to reject the plaint.

4. The learned counsel appearing for the applicant/third defendant



submitted that there is no cause of action as on date to maintain the present Suit and the relief claimed is therefore barred by law. The order of the XV Assistant City Civil Court in I.A.Nos.865 & 866 of 2017 in O.S.No.320 of 2017 clearly restrain Mr.AR.Ramasamy or any person claiming through him from altering the composition of the society, until disposal of the suit and when there is a cloud on the title, Mr.AR.Ramaswamy or his men viz, RM.Veerappan and Mr.V.Jayaraman have no locus whatsoever to maintain the present Suit. The entire statement in the plaint made by the 1st and 2nd respondents/Plaintiffs, do not disclose any cause of action that the 1st and 2nd respondents/Plaintiffs have a clear right to sue. In the absence of such right or such right being restrained to be applied by an order of court, no party can assume such right by illusion. Further, the learned counsel submitted that the cause of plaint, does not disclose that the office bearers of the society, had not taken any steps, despite the 1st and 2nd respondents/Plaintiffs' attempt to represent in writing requesting for AGM for conduct of the affairs of the society and they have slept over the issue over a period of more than 4 years; upon fall of few members, the sudden spark to protect the interest of the society evolved in the minds of the 1st and 2nd respondents/Plaintiffs, is a fraudulent attempt and using the jurisdiction of the Civil Court as a tool to achieve their ill goal which shall not be



of conducting AGM is barred under law and purely an indoor affair not to be adjudicated or interfered by any Court of law.

5. Further it is submitted that the Suit is not maintainable on the basis that it was not filed by the legally competent person as envisaged under the bylaw of the society and the bylaw being the sacrosanct document each person once becomes a member, is bound by the terms of the bylaw. The person acting against the interest of the terms of the bylaw, is liable to be removed and hence the suit is liable to dismissed or rejected.

6. The learned counsel appearing for the 1st and 2nd respondents/Plaintiffs submitted that the Plaintiffs have got a perfect cause of action to file a suit and there is no legal impediment to file the suit. Therefore, the question of maintainability of the Suit does not arise. Further, the learned counsel submitted that the applicant/ 3rd defendant has also not pointed out that the Suit is barred under which provision of law and accordingly, the application is liable to be dismissed.

7. Heard the learned counsel appearing for the parties and perused the materials placed on record.

8. On a reading of the plaint, it is seen that the 1st and 2nd respondents/Plaintiffs have got cause of action in the Suit and the same is



not barred by any law. Further it is stated that since no Annual General Body Meeting has been held after 30.07.2016, election has not been conducted for the society after 21.07.2013. It is imperative that the General Body Meeting of the society is held for the purpose of considering and approving the annual reports and accounts of the society and conducting election for Executive Committee Members and office bearers for the next three years. As rightly pointed out by the learned counsel appearing for the Plaintiffs that if the situation continues, it will not be in the interest of the society and it will be extremely difficult for continuing the religious and charitable activities of the society and the society may become defunct and get struck by the Registrar of Societies. Further, the learned counsel submitted that the cause of action for the suit arose at Santhome High Road, Chennai on 30.07.2016, when the Annual General Body Meeting of the society was held under the Chairmanship of Mr.Mohan Parasaran. On 15.08.2016, the 1st and 2nd respondents/Plaintiffs requested him to convene another General Body Meeting for conducting the election of office bearers of the society, as the chairman addressed a letter to the Society to place the matter again before the General Body, the fourth respondent/second defendant filed a suit in O.S.No.320 of 2017 *inter alia* for declaration that he has been elected as President of the society for three years and till date



has been conducted. Further applicant/third defendant is also raising blocks for holding meetings and election of the office bearers of the society. Therefore, on a reading of the entire averments in the plaint, this Court finds that the plaintiffs have disclosed the cause of the action in the Suit and the same is not barred by any law.

9. It is a settled legal proposition of law that at the time of deciding the application filed under Order VII Rule 11, this Court has to look into the averments in the plaints and documents annexed with, and need not look into the defence taken by the defendant under Order VII Rule 11 of CPC. Therefore, a careful reading of the plaint itself clearly shows that the plaint discloses cause of action and the applicant/3rd defendant has not established any reason to reject the plaint as contemplated under Order VII Rule 11 CPC and accordingly, the Application in A.No.3320 of 2021 is dismissed.

Sd./-P.V.J
17.03.2022

//Certified to be true copy//
Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)
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