



CRP No.2932 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-12-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CRP No.2932 of 2022

And

CMP No.15897 of 2022

S.P.Subramanian

.. Petitioner

VS.

1.T.P.Gajendran

2.A.Nagalakshmi @ Kumari

3.Mylai S.Kumar

4.J.V.Raukmangadan

5.The District Registrar of Societies,
South Chennai,
Saidapet,
Chennai-600 015.

.. Respondents

PRAYER : This Civil Revision Petition is filed under Article 227 of the Constitution of India, challenging the decretal and final order passed by the



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XIV Assistant City Civil Court, Chennai in IA No.2 of 2022 in OS No.2352 of 2017 dated 24.08.2022.

For Petitioner : Mr.T.T.Ravichandran

For Respondent-2 : Ms.A.Nagalakshmi (alias) Kumari
(Party-in-Person)

For Respondent-5 : Mr.P.Harish,
Government Advocate (CS).

For Respondents-1,3 and 4 : Not Ready in Notice

ORDER

The present Civil Revision Petition has been filed challenging the fair and decretal order dated 24.08.2022 passed in IA No.2 of 2022 in OS No.2352 of 2017.

2. The revision petitioner is the plaintiff, who instituted a suit for declaration and permanent injunction. The suit relief sought for reads as



under:-

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“(a) by declaring that the defendants 1 to 4 are the expelled members of the Cine Technicians Association of South India and consequently issue a permanent injunction restraining defendants 1 to 4 not to in any manner interfere with any of the election process that may be conducted by the Cine Technicians Association of South India for the period 2017-2019 and for subsequent years that may have to be held as per Bye-laws of the Association.

(b) for a decree of declaration that the Annual General Body Meeting held by the expelled members defendants 1 to 4 herein and their men, on 09.04.2017 at A.V.M. Samooga Koodam, A.V.M. Colony, Virugambakkam, Chennai 600 092 is illegal, void, non est and contrary to the Bye-laws of the Cine Technicians Association of South India and consequently issue a permanent injunction restraining the defendants 1 to 4 and their men not to in any manner implement the illegal resolutions passed by them in the meeting as referred above dated 09.04.2017;



(c) for a decree of permanent injunction restraining the defendants, their men, agents, subordinates or any one acting under them from in any manner interfering with the peaceful possession and enjoyment of the properties belonging to the Association more fully described in the Schedule hereunder”.

3. It is not in dispute that the suit now posted for judgment. The trial was concluded and at that stage, the revision petitioner filed an Interlocutory Application to amend the prayer in the suit.

4. The amendment sought for in the plaint and the prayer in the Interlocutory Application reads as under:-

“1. In para No.VIII of the plaint after the last line add:

The plaintiff s states that WP No.6777 of 2017 came up for hearing before High Court, Madras and on 15.02.2022 the Hon'ble High Court was pleased to permit the plaintiff to withdraw the writ



petition granting liberty to raise all points in the controversy arising in the present suit. The plaintiff states that the order dated 16.02.2017 passed by the fifth respondent is against the principles of natural justice and no hearing was granted to the plaintiff-Association. The plaintiff also states that the order dated 16.02.2017 has got civil consequences and has been passed by the fifth respondent without jurisdiction.

In the prayer portion add:

Prayer aa) to declare that the order passed by the fifth respondent in proceedings bearing No.Aa.Ti.Mu. No.2114/E22017 dated 16.02.2017 is without jurisdiction, null and void and non est in the eyes of law.”

5. With reference to the plaint prayer and the amended prayer sought for in the Interlocutory Application, the learned counsel for the revision petitioner drew the attention of this Court with reference to the averments in the plaint that “the fifth respondent has been partisan made a party to the present proceeding since he is apparently acting in a partisan



manner and has taken a contradictory stand by issuing the letter dated 16.02.2017 which is the subject matter of challenge before the Hon'ble High Court, Madras in WP No.6777 of 2017. The plaintiff states that the defendants 1 to 4 has been misleading the members of the Association and there is no other alternative other than to file the present suit seeking for a declaration that they are the expelled members of the Association. Moreover, the meeting held on 09.04.2017 by the defendants 1 to 4 is also illegal and the same is liable to be declared as null and void. Therefore, the present suit”.

6. Relying on the above averments in the plaint that the fifth respondent Sub Registrar has issued a letter on 16.02.2017, the learned counsel for the revision petitioner states that the writ petition was pending at the time of institution of the suit in WP No.6777 of 2017. However, the said writ petition was withdrawn by the revision petitioner, who is the petitioner in that writ petition. On 15.02.2022, this Court granted liberty to the revision petitioner to pursue his remedy in the civil suit, which was filed



before the Competent Civil Court.

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7. In view of the withdrawal of the writ petition, the revision petitioner filed an Interlocutory Application to amend the plaint and the prayer in the suit. It is contended that in view of the withdrawal of the writ petition, it became necessary for the revision petitioner to amend the plaint, since the fifth respondent-Sub Registrar passed an order, which was already referred by the revision petitioner in the plaint itself.

8. In support of the said contention, the learned counsel for the revision petitioner referred the Full Bench judgment of this Court in the case of **C.M.S.Evangelical Suvi David Memorial Higher Secondary School Committee vs. The District Registrar Cheranmahadevi, Tirunelveli District [(2005) 2 CTC 161]**, wherein in paragraph-20, the Full Bench of this Court observed as under:-

“20.

In the event the Registrar satisfies himself as to the



particulars furnished in Form VII as correct, he should enter the names in the register maintained for that purpose. In the event if he does not satisfy as to the particulars and thereby does not accept Form VII, he has to issue a direction relegating the parties to approach the Civil Court for appropriate orders and thereafter shall act as per the orders of the Civil Court.”

9. The second respondent/party-in-person appearing in the revision petition articulated her case by stating that the present civil revision petition is not entertainable. The revision petitioner has committed several irregularities in dealing with the funds of the members of the Cine Technicians Association of South India and the Association became defunct on account of the illegalities and irregularities being committed by the revision petitioner herein.



10. The second respondent/party-in-person lamented by saying that hard earned money invested by the respective members of the Cine Technicians Association of South India have been wrongly and illegally dealt with and now they became senior citizens struggling even to establish their right in respect of their investments made through their hard earned money. Several members of the Association paid money for purchase of land during the year 1992 and accordingly 25 acres of land was purchased, which has been illegally dealt with by the revision petitioner herein.

11. In respect of the present Civil Revision Petition, the second respondent/party-in-person stated that the trial was concluded in the suit and it was posted for judgment. At that stage, the present Civil Revision Petition is filed in order to prolong and to protract the suit for personal gains and thus the Civil Revision Petition is to be rejected.

12. No doubt, the Court may, at any stage of the proceedings, allow either of the parties to alter or amend the pleadings in such a manner



or as such terms as may be necessary for the purpose of determining the real question of controversy between the parties. However, the proviso clause contemplates that no application for amendment shall be allowed after the trial has commenced, unless the Courts comes to the conclusion that in spite of due diligence, the party could not raise the matter before the commencement of trial.

13. In the present case, the revision petitioner has filed the writ petition challenging the order passed by the Sub Registrar in WP No.6777 of 2017. For the reasons best known to him, the revision petitioner had withdrawn the writ petition in the year 2022 after a lapse of about 5 years from the date of filing of the writ petition. In the meanwhile, he has instituted the suit. The High Court referred about the pendency of the civil suit in the writ petition. However, the petitioner since withdrew the writ petition, cannot re-adjudicate the issue in a pending suit, which would cause prejudice to the interest of the defendants. It is to be considered whether the relief sought for in the plaint and the amendment sought for is made for the



purpose of determining the real question in controversy between the parties.

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14. The suit was instituted for a declaration to declare that the defendants 1 to 4 are the expelled members of the Cine Technicians Association of South India. Further declaration is sought for that the Annual General Body Meeting held by the expelled members defendants 1 to 4 and their men, on 09.04.2017 is also null and void and for the permanent injunction to the letter issued by the Sub Registrar, which was the subject matter of the writ petition, was marked as a document in the suit. The letter dated 16.02.2017 was included in the list of documents along with the plaint in Serial No.27 and subsequently marked. Thus, the said letter of the District Registrar of Society was very much available at the time of institution of the suit and the revision petitioner has not prayed for quashing of the said letter at the time of institution of the suit.

15. Though the letter issued by the District Registrar on



16.02.2017 was enclosed along with the list of documents in the plaint and the revision petitioner was very much in possession of the letter at the time of institution of the suit, he has not chosen to challenge the said letter or to declare the letter as null and void.

16. That apart, the revision petitioner has pursued the writ petition for about five years and only during the year 2022, the writ petition was withdrawn by him. Now the amended relief sought for in the plaint is to declare the said letter dated 16.02.2017 as null and void. On the one hand, the revision petitioner has challenged the said letter by way of a writ petition and separately filed civil suit to declare the General Body Meeting as null and void. The course of illegal action was set in motion by the revision petitioner by independently filing the writ petition, challenging the order passed by the District Registrar in the writ proceedings and to declare the Annual General Body Meeting is null and void. Now after the withdrawal of the writ petition, he cannot file an amendment after closing of the evidence in the said civil suit that the said letter also to be declared as



null and void.

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17. In the event of allowing the amendment to be carried out in the plaint, undoubtedly the defendants would be prejudiced. They are deprived of cross-examining the witnesses. Now the District Registrar cannot be called as witness in the suit wherein the examination of witnesses were completed. It will create further complication in deciding the issues. It will cause prejudice to the defendant's interest. Thus, this Court is of the considered opinion that the findings of the Trial Court in dismissing the Interlocutory Application is candid and is in consonance with the principles established.

18. The judgment relied on by the revision petitioner is of no avail since the facts in the present case are not comparable. The suit has now been posted for judgment. At this stage, amendment in the plaint and the amendment of prayer cannot be permitted and more-so, the suit is pending for the past about five years and probably such Interlocutory



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Applications are filed with an idea to prolong and protract, which cannot be encouraged by the Courts.

19. In view of the facts and circumstances, this Court is not inclined to consider the present Civil Revision Petition. Since the suit is posted for judgment, the Trial Court has to deliver the judgment as expeditiously as possible preferably within a period of one month from the date of receipt of a copy of this order.

20. Accordingly, the present Civil Revision Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

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Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

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To

The XIV Assistant Judge,
XIV Assistant City Civil Court,
Chennai.



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S.M.SUBRAMANIAM, J.

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