



AS Nos.337 to 339 of 2022
& CRP No.2347 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 06.11.2023	Delivered on 05.12.2023
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CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**
and
THE HONOURABLE MR.JUSTICE **N.SENTHILKUMAR**

A.S.Nos.337, 338 & 339 of 2022
and Civil Revision Petition No. 2347 of 2022
and Connected Miscellaneous Petitions

1. All India Anna Dravida Munnetra Kazhagam
(presently known as All India Anna Dravida
Munnetra Kazhagam (Amma), as per order
dated 22-03-2017 and 23-03-2017 passed in
Dispute Case No.2/2017 by the
Election Commission of India)
having its headquarters at 226, Avvai Shanmugam Salai,
Royapettah, Chennai, Tamil Nadu 600 014;
through its General Secretary.

2. V.K.Sasikala, aged about 62 years
General Secretary, All India Anna Dravida Munnetra
Kazhagam (presently known as All India Anna
Dravida Munnetra Kazhagam (Amma), as per
order dated 22-03-2017 and 23-03-2017
passed in Dispute Case No.2/2017 by the
Election Commission of India) D/o. Late Vivekandan,
Prisoner No.9234, Parappana Agrahara Jail,
Bengaluru, Karnataka – 560 100 and permanent
resident of 81 Poes Garden, Chennai 600 086.

... Appellants in all the Appeals and the
Petitioners in CRP 2347 of 2022



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Vs

1. All India Anna Dravida Munnetra Kazhagam
(Puratchi Thalaivi Amma) through its Office bearer:
E. Madhusudanan, aged 77 years,
S/o. Sehsaiah Naidu, 41 Kothanda Raman Street,
Old Washermenpet, Chennai 600 021.
2. Mr.E.Madhusudanan
3. Mr.O. Panneerselvam
4. Mr. S. Semmalai
5. Mr. Edapadi K. Palanisamy
6. Mr.Dindugal C.Sreenivasan
7. Karur Vyasa Bank Ltd.,
Through its Branch Manager,
Mylapore Branch, Chennai 600 004.
8. Indian Bank
Through its Branch Manager,
Abhiramapuram Branch, Chennai 600 018.
9. Bank of India
Through its Branch Manager,
Cathedral Road Branch, Chennai 600 086.
10. T.T.V. Dhinakaran
Deputy General Secretary, All India Anna Dravida Munnetra
Kazhagam (presently known as All India Anna
Dravida Munnetra Kazhagam (Amma), as per
orders dated 22-03-2017 and 23-03-2017
passed in Dispute Case No.2/2017 by the
Election Commission of India) S/o.T.Vivekanandan,



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R/o. No.5, 4th Street, Venkateshwara Nagar,
Karpagam Garden, Adyar, Chennai 600 020.

... Respondents in all the Appeals
and CRP 2347 of 2022

Prayers:

in AS Nos. 337 to 339 of 2022: These appeals have been filed under Section 96 of the Code of Civil Procedure 1908, to set aside the decretal order dated 11.04.2022 passed in (i) I.A.No.8 of 2021 in O.S.No.1413 of 2021, (ii) I.A.No.10 of 2021 in O.S.No.1413 of 2021, (iii) I.A.No.9 of 2021 in O.S.No.1413 of 2021 on the file of the IV Additional City Civil Judge, Chennai.

In CRP No.2347 of 2022: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order and decretal order dated 11.04.2022, passed by the IV Additional City Civil Court at Chennai in IA No.11 of 2021 in OS No.1413/2021 (C.S. No.858/2017 (B)).

For Appellants : Mr.G.Rajagopalan, Senior Counsel
(in all the Appeals for Mr.PA.Elantamil Arvalan
and the CRP)

For Respondents : Mr.Vijay Narayan, Senior Counsel
for M/s.K.Gowthamkumar,
Mr.C.Vigneshwaran, Mr.Amogh Sinha,
Harini Muruganandam, Mr.A.P.Balaji,
& Mr.E.Balamurugan
for Respondents 1, 4, & 6 in all the
Appeals and CRP



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: Mr.P.H.Aravind Pandian,Senior Counsel
for Ms. P.Rajalakshmi
for 3rd Respondent in all the
Appeals and CRP

: Mr.S.R.Rajagopal, Senior Counsel
for Mr. S.R.Raghunathan,
Mr. Anil Kumar & Mr.E.Balamurugan
for 5th Respondent in all the
Appeals and CRP

: RR 7 to 10 – served – No appearance

COMMON JUDGEMENT

(Judgment of the Court was delivered by R.SUBRAMANINA, J.)

These Appeals and the Revision symbolize the power tussle in one of the major political parties in the State of Tamil Nadu. The Political Party viz. All India Anna Dravida Munnetra Kazhagam was founded by Dr.M.G.Ramnachandran, a star of yesteryears, during the year 1972. The constitution of the party which is called the Rules and Regulations framed soon after the formation of the Political Party were amended from time to time to suit the needs of the political situation in the State.

2. On the passing away of Dr.M.G.Ramanchandran, the party split

into two, where one of the factions was led by his wife Janaki



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Ramachandran and the other by his close confidant Dr.J.Jayalalitha, who was also a movie star of yesteryears. However, after suffering a major defeat in the elections that ensued immediately after the split, both the factions came together and Dr.J.Jayalalitha, became the General Secretary of the party.

3. As per the constitution of the party, the post of the General Secretary has the highest authority in the party and it weilds enormous powers. Dr.J.Jayalalitha took ill and eventually met her maker on 05.12.2016. On her passing away began the struggle for power in the party.

4. A notice convening the Meeting of the General Council of the party on 29.12.2016 was issued on 09.12.2016 by the office bearers of the Headquarters of the party. At the said meeting Tmt. V.K.Sasikala, was appointed as the interim General Secretary. Her name was proposed by almost all the members of the Executive Council of the party and was seconded by the members of the General Council. To put it simply, she was the unanimous choice. However, Mr.O.Panneerselvam, one of the prominent members of the party, who was the Chief Minister resigned as



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Chief Minister on 07.02.2017.

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5. On 14.02.2017, the Appeal against the Criminal case by the General Secretary Tmt. V.K.Sasikala, as against her conviction was dismissed thereby confirming her conviction. As a result of which she was incarcerated at the Parappana Agrahara Prison in Bangaluru. On 16.02.2017, Mr.Edappadi K. Palanisamy, another prominent member of the party was chosen and sworn in as the Chief Minister. Upon her appointment as General Secretary, Tmt.V.K.Sasikala, appointed the third plaintiff in the suit one Mr. T.T.V.Dhinakaran, as a Deputy General Secretary on 14.02.2017. In her capacity as General Secretary, Tmt. V.K.Sasikala, removed Mr.E.Madhusudanan and Mr.O.Panneerselvam , who figure as defendants 2 and 3 in the suit, as office-bearers of the party. While Mr.O.Panneerselvam was removed from the post of the Treasurer, Mr.Madhusudanan, was removed from the post of the Presidium Chairman as well as from the primary membership of the party with effect from 10.02.2017. Several other nominations were also made to various posts in the party consequent upon removal of the incumbents. These removals and appointments were forwarded to the Election Commission of India also.



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6. This led to a dispute as to which of the two groups represented the real party. Both the groups approached the Election Commission of India under the Election Symbols (Reservation and Allotment) Order 1968. The Election commission passed an interim order on 22.03.2017 freezing the symbol of the party and directing both the quarreling groups not to use the name of the party. However, both the groups were permitted to add a suffix to the name of the party, while the group led by Tmt.V.K.Sasikala was permitted to use the name All India Anna Dravida Munnetra Kazhagam (Amma), the other group was permitted to use the name All India Anna Dravida Munnetra Kazhagam (Puratchi Thalaivi Amma).

7. Even during the pendency of the dispute before the Election Commission, the office bearers of the Headquarters of the Party issued a notice on 28.08.2017 calling for a meeting of the General Council of the Party on 12.09.2017. It will not be out of place to mention at this juncture that one P.Vetrivel, a member of the party filed a suit in CS No.707 of 2017 challenging the said notice dated 28.08.2017 on 11.09.2017. The said suit came to be dismissed by a learned Single



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Judge of this Court and said dismissal was confirmed on Appeal in OSA
No.244 of 2017.

8. On 12.09.2017 at the General Council Meeting which was attended by the same members, who attended the meeting on 29.12.2016, wherein Tmt.V.K.Sasikala was nominated as the Interim General Secretary, various resolutions were passed including certain resolutions amending the constitution of the party. At the said meeting, the resolution dated 29.12.2016 appointing Tmt.V.K.Sasikala, as the Interim General Secretary was rescinded. All decisions taken by her as the General Secretary of the Party were also cancelled. Certain other amendments were made creating a post of Coordinator and Joint Coordinator of the Party and Mr.O.Panneerselvam and Mr.Edappadi K.Palanisamy were appointed as Joint Coordinator and Coordinator of the party respectively.

9. By this process, the other group wrested control of the party. Soon thereafter, a suit came to be filed in CS No.858 of 2017 by the faction of the party viz. All India Anna Dravida Munnetra Kazhagam (Amma) represented by its General Secretary, Tmt.V.K.Sasikala and



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Mr.T.T.V.Dhinakaran, as the General Secretary and Deputy General Secretary of the party respectively, seeking various prayers. The prayers in the suit are reproduced for the sake of convenience.

“(i) Pass a decree of declaration in favour of the plaintiffs and against the defendants and the defendants Nos. 2 to 4 post their expulsion from the party in February 2017 and the defendants Nos.5 and 6 are not members of the plaintiff No.1 party and all act, deeds, things done and representations made by them pursuant thereto holding themselves out as members and office bearers of the plaintiff No.1 party are illegal and without the sanction of the Bye-Laws of the plaintiff No.1 party;

(ii) Pass a decree of declaration in favour of the plaintiffs and against the defendants that the Notification dated 12-03-2017 issued by the defendant No.2 in his alleged capacity as Presidium Chairman of the plaintiff No.1 Party whereby the defendant No.2 appointed himself as Chief of Board and the defendant No.3 as the alleged Treasurer and the defendant No.4 as Organizing Secretary of the plaintiff No.1 party is



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illegal, void and not binding upon the plaintiffs;

(iii) Pass a decree of declaration in favour of the plaintiffs and against the defendants that the Notice dated 28-08-2017 issued by the defendant No.2 is illegal, inoperative and void;

(iv) Pass a decree of declaration in favour of the plaintiffs and against the defendants Nos.1 to 6 that the alleged Meeting dated 12-09-2017 convened by defendants and their supporters under the guise of All India Anna Dravida Munnetra Kazhagam (Amma, Puratchi Thalaivi Amma) representing themselves as the representatives of the plaintiff No.1 Party is illegal and void;

(v) Pass a decree of declaration in favour of the plaintiffs and against the defendants that all resolutions passed adopted by the defendants and their supporters in the alleged Meeting dated 12-09-2017 and all consequential actions taken by the defendants and their supporters acting upon the same are illegal, inoperative and void;



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(vi) *Pass a decree of permanent injunctions in favour of the plaintiffs and against the defendants Nos.2 to 6 restraining them from holding out themselves out to be office bearers and members of the plaintiff No.1 Party on account of their expulsion in February 2017;*

(vii) *Pass a decree of permanent injunctions in favour of the plaintiffs and against the defendants Nos.2 to 4 from carrying out any consequential act by virtue of Notification dated 12-03-2017 illegally issued by the defendant No.2 in his alleged capacity as Presidium Chairman of the plaintiff No.1 Party whereby the defendant No.2 appointed himself as Chief of the Board and the defendant No.3 as the alleged Treasurer and the defendant No.4 as Organizing Secretary of the Plaintiff No.1 Party; and*

(viii) *Pass a decree of permanent injunction in favour of the plaintiffs and against the defendants Nos.1 to 6, their servants, representatives, office bearers restraining them from giving effect to resolution 1 to 12 passed and adopted by them in the meeting dated 12-09-*



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2017 and from carrying out any consequential acts thereto ; and

(ix) Pass a decree of permanent injunction in favour of the plaintiffs and against the defendants restraining the defendants Nos.1 to 6 from operating any Bank Accounts of the plaintiff No.1 Party; and

(x) Pass a decree of permanent injunction in favour of the plaintiffs restraining the defendants No.2 to 6, their servants, representatives, Office bearers, claiming through the defendants No.2 to 6 from operating any Bank Accounts of the plaintiff No.1 with defendants No.7 to 9 except through the Treasurer appointed on 10-09-2017 by the plaintiff No.2 as General Secretary of plaintiff No.1 Party;

(xi) Pass a decree of permanent injunction in favour of the plaintiffs and against the defendants Nos.1 to 6 and their servants, representatives, office bearers restraining them from interfering with the functions of the present validly appointed office bearers appointed by the plaintiff No.2 and 3 in the discharge of their duties in



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the day to day affairs of the plaintiff No.1 Party; and

(xii) Pass a decree of permanent injunction in favour of the plaintiffs and against the defendants Nos.1 to 6 and their servants, representatives, officer bearers restraining them from convening any General Council Meeting of the plaintiff No.1 party and from passing any resolutions thereat; and

(xiii) Pass any other such orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

10. The suit that was originally filed in this Court was transferred to the City Civil Court and numbered as OS No.1413 of 2021. In the interregnum, the Election Commission passed final orders in the symbol case on 23.11.2017. The Election Commission held that the group led by Mr.E.Madhusudanan, who were the petitioners before the Election Commission represented the real party and they were entitled to use the name and symbol of the party. This order came to be passed by the Election Commission based on the majority test as laid down by the

Hon'ble Supreme Court in ***Shri Sadiq Ali and another v. The Election***



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Commission of India, New Delhi and others, reported in ***(1972) 4 SCC***

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664. The order of the Election Commission was challenged by the plaintiffs in the suit before the Hon'ble Delhi High Court in WP (Civil) No.10725, 10728 and 10733 of 2017. Those Writ Petitions came to be dismissed on 28.02.2019 upholding the order of the Election Commission.

11. The second plaintiff and Mr.T.T.V.Dhinakaran, the third plaintiff filed Special Leave Petitions against the judgment of the Delhi High Court before the Hon'ble Supreme Court which also came to be dismissed on 26.03.2019. The Second plaintiff in the suit Tmt.V.K.Sasikala, sought for review of the judgment of the Hon'ble Supreme Court in RP (Civil) No.1404 of 2019, which also came to be dismissed on 23.04.2020.

12. The main contention of the plaintiffs in the suit as could be gathered from the plaint is that the notice for the General Council Meeting issued on 28.08.2017 by the Officer-bearers of the Headquarters of the party itself is invalid, since, under the constitution of the party it is only the General Secretary, who can convene a General Council Meeting.



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The Headquarters office-bearers, who had issued the notice convening the meeting on 28.08.2017, were removed as officer bearers by the Interim General Secretary appointed on 29.12.2016 and therefore, they had ceased to be the primary members of the party.

13. It was also contended that in the absence of the General Secretary, it is the Deputy General Secretary who is empowered to convene the meeting and therefore, the very meeting held on 12.09.2017 is illegal and any resolution passed therein will not bind the General Secretary viz. the second plaintiff in the suit. It was the further contention that the order passed by the Election Commission under the Election Symbols (Reservation and Allotment) Order 1968, will not affect the civil rights and therefore, the second plaintiff continued to be the General Secretary of the party. Upon transfer of the suit to City Civil Court, Applications were filed in IA No.8 of 2021 by the fifth defendant, IA No.9 of 2021 by the fourth defendant, IA No.10 of 2021 by the third defendant, seeking rejection of the plaint on various grounds. The plaintiffs filed IA No.11 of 2021 seeking amendment of the plaint.



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14. While the applications for rejection of the plaint were filed by the various defendants on the contention that the two groups viz. All India Anna Dravida Munnetra Kazhagam (Amma) and All India Anna Dravida Munnetra Kazhagam (Puratchi Thalaivi Amma), were creatures of the interim orders of the Election Commission dated 22.03.2017 and they were created only for the purposes of the Bye-Election to the Radhakrishnan Nagar Constituency, which was to be held immediately thereafter. Upon passing a final orders by the Election Commission on 23.11.2017, the Election Commission has recognized the group led by Mr.EMadhusudanan, as the original party and therefore, in view of the final orders passed which had been confirmed by the Delhi High Court as well as the Hon'ble Supreme Court, the very suit as framed, as if the group that was created by the interim order of the Election Commission is the original All India Anna Dravida Munnetra Kazhagam is not maintainable.

15. It is the further contention of the petitioners/defendants in the suit that the second plaintiff cannot maintain the suit in her capacity as General Secretary as her appointment itself has been cancelled by a subsequent resolution dated 12.09.2017. If at all there could be any



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challenge to the resolution dated 12.09.2017, it could only be by the second plaintiff in her personal capacity and not as a General Secretary or as a representative of the group. It was also pointed out that the third plaintiff who was nominated as the Deputy General Secretary was not even a primary member of the party on the date of death of the Former Chief Minister, the General Secretary Dr.J.Jayalalitha.

16. It was also contended that the fact that no application has been filed under Order I Rule 8 of the Code of Civil Procedure to enable the second plaintiff to represent the members of the party would also vitiate the suit. It should be pointed out that the third plaintiff, who was nominated as the Deputy General Secretary of the party by the second plaintiff filed a memo and withdrew from the suit on 15.03.2021, since he had launched a political party by himself in the interregnum.

17. The second plaintiff resisted the Applications for rejection of the plaint contending that though not as a General Secretary, she as the primary member of the party would be entitled to challenge the notice dated 28.08.2017, convening the meeting of the General Council issued by the Headquarters Office-bearers, while she was holding the post of



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General Secretary and the third plaintiff was holding the post of Deputy General Secretary. The second plaintiff also filed an Application in IA No.11 of 2021 seeking to amend the plaint extensively, the prayer in IA No.11 of 2021 reads as follows:

“I) In the short, long cause title of the Plaint and Statement of Address

a. Delete the existing name of the 1st plaintiff and 3rd plaintiff in long and short cause title and statement of address of the plaint and show the 2nd plaintiff as sole plaintiff with present address as stated below:

*V.K. Sasikala,
aged about 66 years,
General Secretary,
All India Anna Dravida Munnetra Kazhagam,
D/o. Late Vivekanandan,
residing at No.179/68, Habibullah Road, North
Usman Road,
T. Nagar, Chennai 600 017.*

b. Delete the existing name of the 1st defendant in the long and short cause title and statement of address of the plaint and show the 1st defendant's name in the plaint as stated below:

*All India Anna Dravida Munnetra Kazhagam
through its Office bearer:*



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*E. Madhusudanan, aged 77 years,
S/o. Sehsaiah Naidu,
R/o. 41, Kothanda Raman Street,
Old Washermanpet, Chennai 600 021.*

*c. To mention the 2nd defendant as died in the
long and short cause title of the plaint and show the
2nd defendant's name in the plaint as stated below:*

*Mr.E.Madhusudanan (died),
S/o.Sehsaiah Naidu,
R/o.41, Kothanda Raman Street,
Old Washermanpet, Chennai 600 021.*

*II) To amend and substitute the word Plaintiff
No.1 to All India Anna Dravida Munnetra Kazhagam
wherever in the averments, pleadings and in the
existing plaint prayer (i) to (xiii)*

*III) To incorporate the following Court Fee in
para No.58 of the plaint:*

*a. For the relief of declaration “ to declare that
the plaintiff V.K.Sasikala as the General Secretary of
All India Anna Dravida Munnetra Kazhagam based on
the resolutions passed in the General Council meeting
dated 29-12-2016 is binding on the defendants” is
incapable of valuation and valued at Rs.5000/- for the*



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purpose of Court Fee and pays a Court Fee of Rs.150 U/s.25(d) of Tamil Nadu Court Fee and Suit Valuation Act, 1955.

b. For the relief of declaration “ to declare the creation of the post of Co-ordinator and Joint Co-ordinator of the 1st defendant All India Anna Dravida Munnetra Kazhagam party by Resolution No.10 dated 12-09-2017 as illegal, void abinitio and otherwise contrary to the bye law of the Party” is incapable of valuation and valued at Rs.5000/- for the purpose of Court Fee and pays a Court Fee of Rs.150 u/s. 25(d) of Tamil Nadu Court Fees and Suit Valuation Act 1955.

c. For the relief of declaration “to declare that General Secretary has vested with the powers to expel any member from the primary member of the All India Anna Dravida Munnetra Kazhagam who indulges against the rules and regulations of the 1st defendant’s Bye Law” is incapable of valuation and valued at Rs.5000/- for the purpose of Court Fee and pays a Court Fee of Rs.150 u/s. 25(d) of Tamil Nadu Court Fees and Suit Valuation Act 1955.

d. For the relief of Mandatory Injunction “to hand over the membership details, books of Accounts, books of minutes of meetings, property documents, Bank Accounts related documents, details of funds of party and other books and Office keys of the party office



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properties from the 2nd to 6th defendants with regard to All India Anna Dravida Munnetra Kazhagam party to the plaintiff” is incapable of valuation and valued at Rs.1000/- and pays a Court Fee of Rs.30/- u/s.27(c) of Tamilnadu Court Fees and Suit Valuation Act 1955.

IV) To incorporate the following reliefs as relief xiv to xvi in addition to the existing reliefs in the plaint prayer.

a. to declare the plaintiff V.K.Sasikala as the General Secretary of All India Anna Dravida Munnetra Kazhagam the 1st defendant herein based on the resolutions passed in the General Council meeting dated 29-12-2016 is binding on the defendants.

b. to declare the creation of the post of Co-ordinator and Joint Co-ordinator of the 1st defendant All India Anna Dravida Munnetra Kazhagam party by Resolution No.10 dated 12-09-2017 as illegal, void abinitio and otherwise contrary to the bye law of the party;

c. to declare that General Secretary has vested with the powers to expel any member from the primary member of the All India Anna Dravida Munnetra Kazhagam who indulges against the rules and regulations of the 1st defendant's Bye law;

d. for a Mandatory Injunction to hand over the



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membership details, books of Accounts, books of minutes of meetings, property documents, Bank Accounts related documents, details of Funds of party and other books and Office Keys of the Party Office properties from the 2nd to 6th defendants with regard to All India Anna Dravida Munnetra Kazhagam party to the plaintiff.”

18. The second plaintiff would contend that the amendments sought for have become necessary in view of the orders of the Election Commission passed the symbols dispute. Upon the confirmation of the orders of the Election Commission by the Hon'ble Supreme Court, the two groups that were created for the purposes of the Bye-election ceased to exist and therefore, the second plaintiff would be the General Secretary of the original party viz. All India Anna Dravida Munnetra Kazhagam. Therefore, the plaint should be amended deleting the reference to the two groups both in the cause title and in the body of the plaint and to convert the suit into one filed in her personal capacity challenging the notice dated 28.08.2017 and the resolutions passed in the Meeting dated 12.09.2017. The amendments that were effected in the said meeting were also subject matter of challenge.



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19. This application for amendment was resisted by the defendants in the suit contending that the very nature of the suit is altered, a suit which was filed in a representative capacity as the General Secretary of a faction of the party is now sought to be converted into one in the individual capacity and the prayers in the suit are also sought to be substantially altered by introducing a completely new cause of action. It was contended that the amendments would change the very nature of the suit and therefore, the same should not be allowed.

20. The learned Trial Judge took up the applications for rejection of the plaint and the application for amendment together for disposal. She concluded that the application for amendment cannot be allowed as the same would alter the very nature of the suit and introduce a completely new concept to the suit itself which was filed by the second plaintiff representing the faction of the party. The Trial Court also concluded that the cause of action for the prayers sought for by way of amendment arose subsequently due to the orders of the Election Commission and therefore, they cannot be introduced in a suit which was filed prior to the order that were passed by the Election Commission.



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21. The learned Trial Judge also pointed out that the orders of the Election Commission confirmed by the Delhi High Court and the Hon'ble Supreme Court have upheld the validity of the meeting dated 12.09.2017 and therefore, the same cannot be re-agitated in the suit. While dealing with the applications for rejection of the plaint, the learned Trial Judge came to the conclusion that in view of the orders passed by the Election Commission, the very suit as framed is not maintainable and therefore, the same will have to be rejected. On the above conclusions, the learned Trial Judge allowed the application for rejection of the plaint, while dismissing the application for amendment. This has led to the above Appeals challenging the order of rejection of the plaint and the Civil Revision Petition challenging the order refusing the prayer for amendment of the plaint.

22. We have heard Mr.G.Rajagopalan, learned Senior Counsel assisted by Mr.P.A.Elantamil Arvalan, learned counsel appearing for the appellants in all the Appeals and the petitioners in the Civil Revision Petition, Mr.Vijay Narayan, learned Senior Counsel assisted by Mr.K.Gowthamkumar, appearing for the respondents 1, 4 and 6 in all the



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Appeals and the Civil Revision Petition, Mr.P.H.Aravind Pandian, learned Senior counsel appearing for Ms.P.Rajalakshmi, for the third respondent in the appeals and the Civil Revision Petition and Mr.S.R.Rajagopal, learned Senior Counsel appearing for Mr.S.R.Raghunathan, for the fifth respondent in the appeals and the Civil Revision Petition.

23. Mr.G.Rajagopalan, learned Senior Counsel appearing for the appellants in all the Appeals and the petitioners in the Civil Revision Petition would contend that the Election Commission's order under the Election Symbols (Reservation and Allotment) Order, does not determine the Civil rights of the parties there to. It is confined only to the dispute relating to use of the symbol of the party, by a particular faction, and the Election Commission often goes by the test laid down in ***Shri Sadiq Ali and another v. The Election Commission of India, New Delhi***, referred to *supra*, which according to the learned Senior Counsel has nothing to do with the convening of the meetings of the party and the validity of the resolutions passed in such meetings.



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24. The learned Senior Counsel would also contend that the Rules and Regulations of the party, particularly Rule 19 which deals with the meeting of the General Council lays down that the General Council will be the Supreme Authority to frame policies and programs of the parties and the decision of the General Council is final and binding on all the members of the party. He would also point out that in the absence of the General Secretary, the Deputy General Secretary would act as a General Secretary as per the Rules. He would further point out that having been nominated as the General Secretary of the party in the meeting on 29.12.2016, it is for the second plaintiff to convene a meeting of the General Council or in her absence, the Deputy General Secretary appointed by her viz. the third plaintiff ought to have convened the meeting.

25. Emphasizing the fact that there is no provision in the constitution of the party enabling convening of the General Council Meeting by any person other than the General Secretary or the Deputy General Secretary, Mr.G.Rajagopalan, learned Senior Counsel appearing for the appellants, would vehemently contend that the convening of the very meeting dated 12.09.2017 by the notice dated 28.08.2017 is flawed.



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Therefore, according to him, any resolution passed or decision taken at the meeting held on 12.09.2017 will not be binding on her. Once it is held that the meeting itself was improperly convened the resolutions or decisions taken therein will have to be declared as null and void.

26. The learned Senior Counsel would further contend that the Trial Court had gone by the orders passed by the Delhi High Court and the Hon'ble Supreme Court in the Symbol dispute which cannot be a governing factor or a guide to determine the Civil rights of the parties. The Election Commission only decides as to which of the two factions has the support of the majority in the organizational structure of the party including the Legislature Party. Merely because the Election Commission has recognized one group to have the support of the majority of the Office bearers and the legislative wing of the party, it will not debar the other primary members of the party from agitating their rights before the appropriate Civil Court by way of a suit. Therefore, according to the learned Senior Counsel, the Trial Court was not right in rejecting the plaint. Pointing out that the second plaintiff was appointed as the General Secretary unanimously on 29.12.2016, soon after the death of the then General Secretary and Chief Minister Dr.J.Jayalalitha,



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the learned Senior Counsel would contend that the overturning of the resolution dated 29.12.2016 at the meeting on 12.09.2017 is wholly invalid.

27. The learned Senior Counsel would also rely upon the judgment of the Hon'ble Supreme in ***Sadiq Ali and another v. The Election Commission of India, New Delhi***, wherein it was pointed out that the decision of the Election Commission of India in a dispute under paragraph 15 of the Election Symbols (Reservation and Allotment) Order 1968, is only relating to the use of the symbol and any direction issued would be binding upon the returning officers. The learned Senior Counsel drawing our attention to the following observations of the Hon'ble Supreme Court :

35. *The Commission in resolving this dispute does not decide as to which group represents the party but which group is that party. If it were a question of representation, even a small group according to the Constitution of the Organisation may be entitled to represent the party. Where, however, the question arises as to which of the rival groups is the party, the question*



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assumes a different complexion and the numerical strength of each group becomes an important and relevant factor. It cannot be gainsaid that in deciding which group is the party, the Commission has to decide as to which group substantially constitutes the party.”

would contend that this being the scope of the decision under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968, the claim of the respondents/defendants in the suit that the order in a dispute under para 15 of the Election Symbols (Reservation and Allotment) Order, would conclusively establish that they are the real party and the suit as framed is not maintainable cannot be sustained. The learned Senior Counsel would also draw our attention to the judgment in ***Kanhiya Lal Omar v. R.K.Trivedi and Others***, reported in (1985) 4 SCC 628, wherein at paragraph 13, the Hon’ble Supreme Court had observed as follows:

“13. The above decision upholds the power of the commission to recognise political parties and to decide disputes arising amongst them or between splinter groups within a political party. It also upholds the power of the Commission to issue the Symbols Order. The Court has further observed that



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it could not be said that when the Commission issued the Symbols Order it was not doing so on its own behalf but as the delegate of some other authority.

The power to issue the Symbols Order was held to be comprehended in the power of superintendence, direction and control of elections vested in the commission.”

28. Relying heavily upon the observations of the Hon’ble Supreme Court made in the above two judgments, the learned Senior Counsel would submit that the allowing of the applications under Order 7 Rule 11 of the Code of Civil Procedure based on the conclusions of the Election Commission is not sustainable. The learned Senior Counsel would also submit that once the amendment application in IA No.11 of 2021 is allowed, the suit would be one filed by the second plaintiff in her individual capacity, challenging the notice dated 28.08.2017 convening the General Council meeting on 12.09.2017 and the resolutions passed thereon, which would be perfectly maintainable as the validity of the resolutions or otherwise was not gone into by the Election Commission in the dispute under Paragraph 15 of the Election Symbols (Reservation



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and Allotment) Order, 1968.

29. On the amendment application, the learned Senior Counsel would contend that the amendments sought for are necessitated because of the subsequent orders of the Election Commission and since the suit as it was framed was filed on behalf of the group created by the interim order of the Election Commission, upon a final order having been passed it becomes necessary that the plaint is amended, so as to enable the second plaintiff to seek the reliefs in her individual capacity. Since there is no change in the cause of action for the suit or the substantial prayers that were sought for in the suit, the learned Senior Counsel would submit that the Court should have allowed the amendment application and permitted the second plaintiff to proceed with the suit in her individual capacity.

30. The learned Senior Counsel would also draw our attention to the judgment of this Court in *Nilgiri District Janatha Party, rep by its Secretary, Uthagamandalam v. A.Rahim and 3 others, reported in (1196) 2 LW 456*, in support of his submission that a noncompliance of the procedure contemplated under Order I Rule 8 of the Code of Civil



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Procedure is only a procedural irregularity and it will not lead to rejection of a suit. He would also contend that the Trial Court was not right in rejecting the plaint by taking into account the subsequent events as a rejection order under Order VII Rule 11 has to be based on the plaint allegations and not otherwise. In support of the said contention, the learned Senior Counsel would rely upon the judgment of this Court in ***K.Santhanam v. S.Kavitha through her Power Agent, K.Seerappan***, reported in **2011 (1) CTC 286**.

31. Contending contra Mr.Vijay Narayan, learned Senior Counsel appearing for the fifth defendant in the suit would submit that the Headquarters office-bearers of the party are entitled to call for a General Council Meeting in the absence of the General Secretary. Drawing our attention to the notice issued for the General Council Meeting to be held on 29.12.2016, in which the second plaintiff was nominated as the General Secretary of the party, the learned Senior Counsel would emphasize the fact that even that notice was issued by the office bearers of the Headquarters of the party. He would also draw our attention to Rule 19(7) of the Constitution of the party which mandates that the General Council meeting shall be convened once in a year.



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32. The learned Senior Counsel would point out that the suit itself as framed is not maintainable in view of the fact that it is not filed by the second plaintiff in her individual capacity. According to the learned Senior Counsel, the very suit filed in the name of one of the factions created by the Election Commission under the interim order in a Para 15 dispute cannot be maintained that too after passing of a final order recognizing the other group as the original party. The learned Senior Counsel would draw our attention to para 17 of the judgment of the Hon'ble Supreme Court in *Sadiq Ali and another v. The Election Commission of India, New Delhi*, referred to *supra*, wherein the Hon'ble Supreme Court has extracted para 15 of the Election Symbol (Reservation and Allotment) Order, 1968 and held that the Commission has power to decide as to which of the rival groups is the recognised political party and make such decision binding on the rival sections of two groups, who claims to be political party in question. The learned Senior Counsel would also lay a considerable emphasis on the fact that the order of the Election Commission made in the Para 15 Dispute has been confirmed up to the Hon'ble Supreme Court.



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33. The learned Senior Counsel would also draw our attention to para I of the plaint where the first plaintiff is described as All India Anna Dravida Munnetra Kazhagam (Ammma) and the second plaintiff is declared as the General Secretary of the All India Anna Dravida Munnetra Kazhagam (Ammma) to contend that the suit was not filed by the individual, but by a group which has been now effectively dissolved in view of the final orders passed by the Election Commission in the Para 15 Dispute. The learned Senior Counsel would also draw our attention to the order of this Court passed in Original Application No.884 of 2017 in CS No.707 of 2017 filed by Mr.Vetrivel, wherein the convening of the meeting dated 12.09.2017, through the notice dated 28.08.2017 was upheld by this Court and the said order of the learned Single Judge was also confirmed by a Division Bench of this Court on 11.09.2017 itself.

34. Pointing out the fact that the notices for the meetings that were held on 29.12.2016 as well as 12.09.2017 were issued by the Head Quarters office bearers, the learned Senior Counsel would submit that the constitution of the party enables the office-bearers to function in the absence of the General Secretary. The learned Senior Counsel would also draw our attention to the amendments sought for to contend that the



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amendments are far-reaching and beyond the scope of the suit.

35. The learned Senior Counsel would submit that some of the prayers in the suit itself have become redundant, and they cannot be granted as of today. The learned Senior counsel would further point out that the averments in the affidavit filed in support of IA No.11 of 2021, the application for amendment of plaint would show that what the first plaintiff is seeking is not only the amendment of plaint but substitution of a completely new claim in her individual capacity as a member of the party, whereas the suit was filed by a faction of the party represented by her.

36. The learned Senior Counsel would also submit that para 36 of the affidavit makes it very clear that the amendment is necessitated because of the orders of the Election Commission. The learned Senior Counsel would also draw our attention to the contention in paragraph 36 of the affidavit that amendment application is filed only to nullify the effect of the applications for rejection of the plaint. Decrying the allegations in para 40 of the affidavit filed in support of the amendment application, the learned Senior Counsel would contend that what is



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sought to be substituted is a completely new plaint with a completely new cause of action which cannot be introduced by way of amendment.

37. The learned Senior Counsel would further draw our attention to certain findings of the Election Commission in the order passed in the Para 15 Dispute. Drawing our attention to the conclusions of the Election Commission in the Para 15 Dispute, wherein it has held that the group led by Mr.E.Mathusudanan has the majority support of the office-bearers of the party in all levels, the learned Senior Counsel would contend that the plaintiff cannot by the suit attempt to nullify the findings of the Election Commission which have been ultimately upheld by the Hon'ble Supreme Court.

38. The learned Senior Counsel would also draw support from the observations of the Delhi High Court made in the Writ Petition in which the Para 15 Dispute order was challenged to submit that the High Court has upheld the findings of the Election Commission to the effect that the group led by Mr.E.Madhusudanan had the majority support of the office bearers and therefore, according to the learned Senior Counsel, the resolutions passed in the meeting on 12.09.2017 have been upheld by the



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Hon'ble Delhi High Court. The learned Senior Counsel would draw our attention to the observations of the Hon'ble Supreme Court in ***T.Arivandandam v. T.V.Satyapal and another***, reported in **1977 (4) SCC 467**, wherein the Hon'ble Supreme Court had held that de hors Order VII Rule 11 of the Code of Civil Procedure, the Court must without slightest hesitation condemn gross abuse of the process of the Court. The learned Senior Counsel would submit that if on a meaningful reading of the plaint, it is found that it is manifestly vexatious it should not hesitate to invoke the power under Order VII Rule 11 of the Code of Civil Procedure to reject the plaint.

39. The learned Senior Counsel would draw our attention to the judgment of the Hon'ble Supreme Court in ***Patasibai and Others v. Ratanlal***, reported in **1992 (3) SCC 42**, wherein the Hon'ble Supreme Court had pointed out that a suit can be rejected even after filing of the written statement, if it is found that it is an abuse of process of Court or the prayers have become infructuous, in view of subsequent events. Our attention is also drawn to the judgment of the Hon'ble Supreme Court in ***Revajeetu Builders and Developers v. Narayanaswamy and Sons and Others***, reported in **(2009) 10 SCC 84**, wherein the Hon'ble Supreme



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Court had examined the power of the Court to allow amendments. Our attention is drawn to paragraph 63 and 64, wherein the parameters that are to be considered by the Court in dealing with the applications for amendment were set out as under:

“63. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment:

(1) Whether the amendment sought is imperative for proper and effective adjudication of the case?

(2) Whether the application for amendment is bona fide or mala fide?

(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case; And

(6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.



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These are some of the important factors which may be kept in mind while dealing with application filed under Order 6 Rule 17. These are only illustrative and not exhaustive.

64. The decision on an application made under Order VI Rule 17 is a very serious judicial exercise and the said exercise should never be undertaken in a casual manner. We can conclude our discussion by observing that while deciding applications for amendments the courts must not refuse bona fide, legitimate, honest and necessary amendments and should never permit mala fide, worthless and/or dishonest amendments.”

40. The learned Senior Counsel would submit that the cause of action for the suit does not survive as of today, since the second plaintiff was appointed only as interim General Secretary and the party by majority has decided to remove her from the said post and the group which had removed her has been recognised to be the actual political party or the original political party. The learned Senior Counsel would also submit that there are no triable issues that survive in the suit as of today and according to the learned Senior Counsel, the order passed under Para 15 of the Symbols Orders would be binding on the appellants



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and therefore, the first appellant cannot be heard to contend that she continuous to be the General Secretary of the party.

41. Mr.P.H.Aravind Pandian, learned Senior Counsel appearing for the third respondent would submit that no doubt only the plaint allegations must be looked into, but at the same time, the learned Senior Counsel would submit that if due to certain subsequent events, the prayer in the suit becomes infructuous or becomes incapable of being granted, the Court need not make the parties undergo the tedious process of trial.

42. In support of his contention, the learned Senior Counsel would rely upon the judgment of the Hon'ble Supreme Court in ***Central Provident Fund Commissioner, New Delhi and others v. Lala J.R. Education Society and others***, reported in (2016) 14 SCC 679, wherein it has been held that the Court has the power to look into entire documents including those furnished by the defendant to dismiss the suit on the ground that it is not maintainable, according to the learned Senior Counsel, the ground set out in Order 7 Rule 11 of the Code of Civil Procedure are not exhaustive and that has been made clear by the Hon'ble Supreme Court even in the ***T.Arivandandam***'s case referred to



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supra, wherein the Hon'ble Supreme Court pointed that if on a meaningful reading of the plaint it is found that the suit is an abuse of process of Court, the Court has the power to reject the suit, even though such a ground is not expressly enumerated under Order 7 Rule 11 of the Code of Civil Procedure. The learned Senior Counsel would also draw our attention to the judgment of the Hon'ble Supreme Court in ***Central Provident Fund Commissioner, New Delhi***, referred to *supra*, in support of his submission.

43. Mr.S.R.Rajagopal, learned senior counsel appearing for the fifth defendant in the suit would submit that the validity of the amendments has been decided by the Election Commission and the said decision has become final. Once the amendments to the Bye-laws has been accepted by the Election Commission, the same cannot be re-agitated in the suit, in support of his submission, he would draw our attention to the Order of the Election Commission in the Para 15 Dispute dated 23.11.2017, wherein it was held that the majority of the Members/Office Bearers of the party had filed affidavits supporting the group headed by Mr. E.Madhusudanan and therefore, the said group would be the real All India Anna Dravida Munnetra Kazhagam Party.



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44. The learned Senior Counsel would also draw our attention to the Order of the Delhi High Court affirming the order of the Election Commission in the Para 15 Dispute to contend that the issues that were framed by the Delhi High Court particularly, the second issue as to whether the Commission has applied the relevant and germane test to the dispute and the conclusion of the Court on the said issue would show that the suit itself has become redundant. The learned Senior Counsel would also draw our attention to the judgment of the Hon'ble Supreme Court in *Thiru.K.Palaniswamy v. M.Shanmugam and other*, reported in 2023 *SCC Online SC 177*, to contend that the meeting dated 12.09.2017, the amendments carried out thereon have been up held by the Hon'ble Supreme Court. Therefore, the same question cannot be re-agitated in the suit at the instance of the second plaintiff.

45. The sum and substance of the contention of the learned Senior Counsel appearing for the respondents is that the contention of the plaintiffs/petitioners in the revision and the appellants in the Appeals that the Meeting dated 12.09.2017 is invalid in view of the fact that it was convened by the office bearers of the Head Quarters of the party and that



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any resolution passed thereon will not be binding on her cannot be accepted for the simple reason that she herself was appointed in a meeting that was convened by the Headquarters officer-bearers and under the constitution of the party, there is no provision for appointment of an Interim General Secretary even assuming she had been appointed she ceases to hold office by efflux of time.

46. It is also the contention of Mr.S.R.Rajagopal, learned Senior Counsel that under Rule 5 of the constitution of the party only members who have renewed their Membership once in five years by obtaining a fresh Membership Card would be entitled to be members of the party and the second plaintiff not having renewed her Membership after the year 2018, is not entitled to maintain the suit as an individual member of the party also. The learned Senior Counsel would also invite our attention to the judgment of the Single Judge of the Bombay High Court in ***Damodhardas Govindprasad Sangi v. Fatehsinh, through L.Rs. and others***, reported in ***2022 SCC Online Bom 6724***, wherein the learned Judge has dealt with Revision against an order in Application for amendment of the plaint and had held that if the amendment seeks to rewrite the entire plaint the same cannot be allowed.



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47. The learned Senior Counsel would also rely upon the judgment of the Hon'ble Supreme Court in ***Dahiben v. Arvindbhai Kalyanji Bhanusali (Gajra)***, reported in ***(2020) 7 SCC 366***, wherein the Hon'ble Supreme Court reiterated that if on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit and does not disclose a right to sue, the Court would be justified in exercising the power under Order 7 Rule 11 of the Code of Civil Procedure. Therefore, according to Mr.S.R.Rajagopal, the power to reject the plaint is not confined only to the circumstances set out in Order 7 Rule 11 of the Code of Civil Procedure, it can also be on the ground that no useful purpose will be served by keeping the plaint pending.

48. Pointing out the effect of the order of the Election Commission, the learned Senior Counsel would submit that the first plaintiff is no longer in existence and the second plaintiff cannot claim to be the General Secretary, since she is not found to be representing the party by the Election Commission. The third plaintiff has walked out of the suit by filing a memo. Therefore, according to the learned Senior Counsel, the suit itself has died a natural death and it is unnecessary to



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keep it pending. On the amendments sought for the learned Senior Counsel would submit that the amendments would alter the very basis of the suit itself and therefore, the Trial Court was right in dismissing the application for amendment.

49. The learned Senior Counsel would also point out that all the office bearers of the party can hold office only for 5 years and since more than 5 years had lapsed since the appointment of the appellant as an Interim General Secretary, she can no longer claim to be the General Secretary of the party. He would also point out to the language of the resolution which reads that only till a permanent General Secretary is elected she has been appointed as a General Secretary. Therefore, on the appointment of the next General Secretary by the party, the appellant cannot claim to be the General Secretary of the party.

50. MR.G.Rajagopalan, learned Senior Counsel in reply to the contentions of MR.S.R.Rajagopal, would submit that no doubt there is a prescription that the membership would be only for 5 years, but no consequence has been provided and therefore, the said Rule viz. Rule 5(3)(A) cannot be said to be mandatory. The learned Senior Counsel



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would also draw our attention to the judgment of the Division Bench of this Court in ***J.Jayachandran v. The Election Commissioner of India***, made in ***WP No.26171 of 2021***, dated 14.12.2021, wherein this Court had examined the powers of the Election Commission under Section 29(A) of the Representation of the People Act, 1951, and held that the Election Commission has nothing to do with the internal Elections of the Party. Therefore, according to the learned counsel, the internal elections of the party cannot be made subject matter of proceedings before the Election Commission and therefore, any observation by the Election Commission in the Order made in the dispute under Para 15 of the Symbols order cannot be said to be binding on the Civil Court.

51. We have considered the rival submissions.

52. The entire dispute send us around the notice dated 28.08.2017 and meeting dated 12.09.2017. The learned Senior Counsel appearing for the parties have addressed elaborate arguments on the validity or otherwise of the notice as well as the meeting touching upon the Rules and Regulations of the All India Anna Dravida Munnetra Kazhagam Party. While MR.G.Rajagopalan, learned Senior Counsel appearing for



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the appellants in the Appeals and the petitioners in the Revision would invite us to various provisions of the Rules and Regulations of the party to contend that a Meeting of the General Council of the party cannot be called for by the Office-bearers of the Headquarters of the party under any circumstances, Mr.Vijay Narayan, Mr.P.H.Aravind Pandian, and Mr.S.R.Rajagopal, learned Senior Counsel appearing for the various respondents would submit that the Rules and Regulations of the Party are clear and categorical to the effect that though the General Secretary is an all powerful Authority under the constitution of the party in the circumstances that were prevailing during the relevant period when the Interim General Secretary was incarcerated and the Deputy General Secretary was unwilling to act, the office bearers of the Headquarters of the party can step in to resolve the conundrum, since a party with a membership of more than a one and half crore people, will have to function.

53. The Counsel on either side have relied upon various provisions of the Rules and Regulations of the party. We do not think, we should embark upon the rival contentions on the validity of the notice dated 28.08.2017 and the meeting held on 12.09.2017 as we would be deciding



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an issue that would arise in the suit which is not within our domain in these Appeals. The Appeals are against orders rejecting the plaint and the scope of the Appeals before us, as such, is limited to the correctness of the Order of the Trial Court.

54. We will have to therefore decide, as to whether, the Trial Court was justified in rejecting the plaint or not. Any other question that may incidentally arise can be gone into. We have already extracted the prayers in the plaint, as the cause title stands today, the suit has been laid by a faction of the All India Anna Dravida Munnetra Kazhagam, party created by an interim order of the Election Commission dated 22.03.2017 made in the Para 15 Dispute regarding the use of the Symbol and the name of the party for a particular Bye-Election. Upon passing the final orders in the Para 15 Dispute passed by the Election Commission on 23.11.2017, the identity of the first plaintiff is lost, the third plaintiff who was appointed as the Deputy General Secretary has withdrawn from the suit by filing a Memo on 15.03.2021. Therefore, as of today it is only the second plaintiff who remains in the fray.

55. As the plaint stands the second plaintiff has described herself



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as the General Secretary of the All India Anna Dravida Munnetra Kazhagam. The other faction recognised by the Election Commission in its Interim Order dated 22.03.2017 has been shown as the first defendant and it is represented by one Mr.E.Madhusudanan, who was the Presidium Chairman of the Party at the relevant point of time, before his removal. T The plaint describes the first defendant as an association of renegade persons founded by some erstwhile members of the All India Anna Dravida Munnetra Kazhagam Party.

56. A perusal of the prayers would show that many of the prayers have become redundant or infructuous due to passage of time. The second plaintiff is also conscious of the fact that the suit as it stands cannot continue and that is the reason why an application for amendment has been filed seeking amendment of each and every prayer in the suit. The following Tabular Colum would show the existing prayer and the amendment sought for as well as the prayers which are sought to be introduced afresh.



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Comparison Table- Reliefs claimed by Mrs. VK Sasikala

Relief No.	Existing	If amended
(i)	Pass a decree of declaration in favor of the Plaintiffs and against the Defendants that the Defendants Nos. 2 to 4 post their expulsion from the Party in February 2017 and the Defendants Nos. 5 and 6 are not members of the Plaintiff No. 1 Party and all act, deeds, things done and representations made by them pursuant thereto holding themselves out as members and office bears of the Plaintiff No. 1 Party are illegal and without the sanction of the Bye-Laws of the Plaintiff No. 1 Party;	Pass a decree of declaration in favor of the Plaintiff and against the Defendants that the Defendants Nos. 2 to 4 post their expulsion from the Party in February 2017 and the Defendants Nos. 5 and 6 are not members of the All India Anna Dravida Munnetra Kazhagam Party and all act, deeds, things done and representations made by them pursuant thereto holding themselves out as members and office bears of the All India Anna Dravida Munnetra Kazhagam Party are illegal and without the sanction of the Bye-Laws of the All India Anna Dravida Munnetra Kazhagam Party;
(ii)	Pass a decree of declaration in favor of the Plaintiffs and against the Defendants that that the Notification dated 12.03.2017 issued by the Defendant No. 2 in his alleged capacity as Presidium Chairman of the Plaintiff No. 1 Party whereby the Defendant No. 2 appointed himself as Chief of the Board and the Defendant No. 3 as the alleged Treasurer and the Defendant No. 4 as Organizing Secretary of the Plaintiff No. 1 Party is illegal, void and not binding upon the Plaintiffs;	Pass a decree of declaration in favor of the Plaintiff and against the Defendants that that the Notification dated 12.03.2017 issued by the Defendant No. 2 in his alleged capacity as Presidium Chairman of the All India Anna Dravida Munnetra Kazhagam Party whereby the Defendant No. 2 appointed himself as Chief of the Board and the Defendant No. 3 as the alleged Treasurer and the Defendant No. 4 as Organizing Secretary of the All India Anna Dravida Munnetra Kazhagam Party is illegal, void and not binding upon the Plaintiffs;
(iii)	Pass a decree of declaration in favor of the Plaintiffs and against the	Pass a decree of declaration in favor of the Plaintiffs and against



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	Defendants that the Notice dated 28.08.2017 issued by the Defendant No. 2 is illegal, inoperative and void	the Defendants that the Notice dated 28.08.2017 issued by the Defendant No. 2 is illegal, inoperative and void
(iv)	Pass a decree of declaration in favor of the Plaintiffs and against the Defendants Nos. 1 to 6 that the alleged Meeting dated 12.09.2017 convened by the Defendants and their supporters under the guise of All India Anna Dravida Munnetra Kazhagam (Ammu, Puratchi Thalaivi Ammu) representing themselves as the representatives of the Plaintiff No. 1 Party is illegal and void;	Pass a decree of declaration in favor of the Plaintiff and against the Defendants Nos. 1 to 6 that the alleged Meeting dated 12.09.2017 convened by the Defendants and their supporters under the guise of All India Anna Dravida Munnetra Kazhagam (Ammu, Puratchi Thalaivi Ammu) representing themselves as the representatives of the All India Anna Dravida Munnetra Kazhagam Party is illegal and void;
(v)	Pass a decree of declaration in favor of the Plaintiffs and against the Defendants that all resolutions passed and adopted by the Defendants and their supporters in the alleged Meeting dated 12.09.2017 and all consequential actions taken by the Defendants and their supporters acting upon the same are illegal, inoperative and void.	Pass a decree of declaration in favor of the Plaintiff and against the Defendants that all resolutions passed and adopted by the Defendants and their supporters in the alleged Meeting dated 12.09.2017 and all consequential actions taken by the Defendants and their supporters acting upon the same are illegal, inoperative and void.
(vi)	pass a decree of permanent injunction in favor of the Plaintiffs and against the Defendants Nos. 2 to 6 restraining them from holding out themselves out to be office bears and members of the Plaintiff No. 1 Party on account of their expulsion in February 2017, and	pass a decree of permanent injunction in favor of the Plaintiffs and against the Defendants Nos. 2 to 6 restraining them from holding out themselves out to be office bears and members of the All India Anna Dravida Munnetra Kazhagam on account of their expulsion in February 2017, and
(vii)	pass a decree of permanent injunction in favor of the Plaintiffs and against the Defendants Nos. 2 to 4 from carrying out any consequential act by virtue of Notification dated 12.03.2017 illegally issued by the Defendant No. 2 in his	pass a decree of permanent injunction in favor of the Plaintiff and against the Defendants Nos. 2 to 4 from carrying out any consequential act by virtue of Notification



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	alleged capacity as Presidium Chairman of the Plaintiff No. 1 Party whereby the Defendant No. 2 appointed himself as Chief of the Board and the Defendant No. 3 as the alleged Treasurer and the Defendant No. 4 as Organizing Secretary of the Plaintiff No. 1 Party,	dated 12.03.2017 illegally issued by the Defendant No. 2 in his alleged capacity as Presidium Chairman of the All India Anna Dravida Munnetra Kazhagam Party whereby the Defendant No. 2 appointed himself as Chief of the Board and the Defendant No. 3 as the alleged Treasurer and the Defendant No. 4 as Organizing Secretary of the All India Anna Dravida Munnetra Kazhagam Party,
(viii)	pass a decree of permanent injunction in favor of the Plaintiffs and against the Defendants Nos. 1 to 6, their servants, representatives, office bearers restraining them from giving effect to resolution 1 to 12 passed and adopted by them in the meeting dated 12.09.2017 and from carrying out any consequential acts thereto; and	pass a decree of permanent injunction in favor of the Plaintiff and against the Defendants Nos. 1 to 6, their servants, representatives, office bearers restraining them from giving effect to resolution 1 to 12 passed and adopted by them in the meeting dated 12.09.2017 and from carrying out any consequential acts thereto; and
(ix)	pass a decree of permanent injunction in favor of the Plaintiffs and against the Defendants restraining the Defendants Nos. 1 to 6 from operating any bank accounts of the Plaintiff No. 1 Party	pass a decree of permanent injunction in favor of the Plaintiffs and against the Defendants restraining the Defendants Nos. 1 to 6 from operating any bank accounts of the All India Anna Dravida Munnetra Kazhagam
(x)	pass a decree of permanent injunction in favor of the Plaintiffs restraining the Defendants No.2 to 6, their servants, representatives, office bearers, claiming through the Defendants No.2 to 6 from operating any bank accounts of the Plaintiff No. 1 with Defendants No. 7 to 9 except through the Treasurer appointed on 10.09.2017 by the Plaintiff No. 2 as General Secretary of Plaintiff No. 1 Party.	pass a decree of permanent injunction in favor of the Plaintiffs restraining the Defendants No.2 to 6, their servants, representatives, office bearers, claiming through the Defendants No.2 to 6 from operating any bank accounts of the Plaintiff No. 1 with Defendants No. 7 to 9 except through the Treasurer appointed on 10.09.2017 by the Plaintiff No. 2 as General Secretary of All India Anna Dravida Munnetra Kazhagam Party.



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(xi)	pass a decree of permanent injunction in favor of the Plaintiffs and against the Defendants Nos. 1 to 6 and their servants, representatives, office bearers restraining them from interfering with the functions of the present validly appointed office bearers appointed by the Plaintiff No. 2 and 3 in the discharge of their duties in the day to day affairs of the Plaintiff No. 1 Party	pass a decree of permanent injunction in favor of the Plaintiff and against the Defendants Nos. 1 to 6 and their servants, representatives, office bearers restraining them from interfering with the functions of the present validly appointed office bearers appointed by the Plaintiff No. 2 and 3 in the discharge of their duties in the day to day affairs of the All India Anna Dravida Munnetra Kazhagam
(xii)	pass a decree of permanent injunction in favor of the Plaintiffs and against the Defendants Nos. 1 to 6 and their servants, representatives, office bearers restraining them from convening any General Council meeting of the Plaintiff No. 1 Party and from passing any resolutions thereat	pass a decree of permanent injunction in favor of the Plaintiff and against the Defendants Nos. 1 to 6 and their servants, representatives, office bearers restraining them from convening any General Council meeting of the All India Anna Dravida Munnetra Kazhagam Party and from passing any resolutions thereat
(xiii)	Pass any other such orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.	Pass any other such orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.
(xiv)		to declare the Plaintiff V.K.Sasikala as the General Secretary of All India Anna Dravida Munnetra Kazhagam the 1 Defendant herein based on the resolutions passed in the General Council meeting dated 2.12.2016 is binding on the Defendants
(xv)		to declare the creation of the post of Co-ordinator and Joint Co-ordinator of the 1st Defendant All India Anna Dravida Munnetra Kazhagam party by Resolution No.10 dated 12.09.2017 as illegal, void abinitio and otherwise contrary to the bye law of the Party



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(xv)		to declare that General Secretary has vested with the powers to expel any member from the primary member of the All India Anna Dravida Munnetra Kazhagam who indulges against the rules and regulations of the 1 defendant's Bye Law.
(xvi)		For a Mandatory Injunction to hand over the membership details, books of Accounts, books of minutes of meetings, property documents, Bank Accounts related documents, Details of Funds of party and other books and Office keys of the Party office properties from the 2nd to 6 Defendants with regard to All India Anna Dravida Munnetra Kazhagam party to the Plaintiff.



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57. The contention of MR.G.Rajagopalan, learned Senior appearing for the second plaintiff/appellant is that on the date of the filing of the suit, the interim order of the Election Commission was in force and therefore, the second plaintiff was prevented from using the name All India Anna Dravida Munnetra Kazhagam simpliciter. It is therefore, in compliance with the Order of the Election Commission, the group which was created by the Interim Order was shown as the first plaintiff with a suffix “Amma”, the other group which was not in accordance with the constitution of the Party was shown as the first defendant and it was described with a suffix “Puratchi Thalaivi Amma” again in compliance with the orders of the Election Commission.

58. Pointing out to the amendments sought for Mr.G.Rajagopalan, learned Senior would submit that the amendments sought for are necessitated because of the orders of the Election Commission. Mr.G.Rajagopalan, learned Senior Counsel would vehemently contend that while deciding an Application Under Order VII Rule 11 of the Code of Civil Procedure, the Court has to go strictly by the contents of the plaintiff and it cannot look into any other foreign material. We do not think



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that what is suggested by the learned Senior Counsel is the absolute proposition of Law.

59. No doubt, the Hon'ble Supreme Court and this Court have repeatedly pointed out that the Court has to go only by the contents of the plaint, while deciding an application for rejection of a plaint under Order VII Rule 11 of the Code, but at the same time an exception was laid down by the Hon'ble Supreme Court in *T.Arivandandam v. T.V.Satyapal and another*, reported in **1977 (4) SCC 467**, where the Hon'ble Supreme Court held that if the Court finds, on a meaningful reading of the plaint, it is either vexatious or an abuse of process of court it should not hesitate to throw out the plaint, even under Order X of the Code of Civil Procedure. The power of the Court to examine the plaintiff or a person who is authorized by the plaintiff at the hearing of the suit and to nip meritless action at the bud was reiterated.

60. In *Sopan Sukhdev Sable v. Asstt. Charity Commissioner*, reported in **(2004) 3 SCC 137**, the Hon'ble Supreme Court had pointed out that a rejection of the plaint can be done at any stage and that would mean that certain other material apart from the contents of the plaint can



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also be a reason for such rejection. Even in 1975 the Hon'ble Supreme Court in ***Pasupuleti Venkateswarlu v. The Motor & General Traders***, reported in (1975) 1 SCC 770, wherein, Hon'ble Mr. Justice Krishna Iyer, speaking for the Bench, while rejecting the contention of the appellants therein that the Court ought not to have taken cognizance of subsequent events observed as follows:

“4. We feel the submissions devoid of substance. First about the jurisdiction and propriety vis-a-vis circumstances which come into being Subsequent to the commencement of the proceedings. It is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding. Equally clear is the principle that procedure is the handmaid and not the mistress of the judicial process. If a fact, arising after the lis has come to court and has a fundamental impact on the right to relief or the manner of moulding it, is brought diligently to the notice of the tribunal, it cannot blink at it or be blind to events which stultify or render inept the decretal remedy. Equity justifies bending the rules of procedure, where no specific provision or fairplay is violated, with a view to promote substantial justice--subject, of course, to the



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absence of other disentitling factors or just circumstances. Nor can we contemplate any limitation on this power to take note of updated facts to confine it to the trial Court. If the litigation pends, the power exists, absent other special circumstances repelling resort to that course in law or justice. ...”

The said position was reiterated in ***J.M.Biswas v. N.K.Bhattacharjee and others***, reported in **(2002) 4 SCC 68**, wherein the Hon’ble Mr.Justice D.P. Mohapatra, speaking for the Bench observed as follows:

“10. From the narration of facts and the contentions raised on behalf of the parties, it is clear that the dispute raised in the case has lost its relevance due to passage of time and subsequent events which have taken place during the pendency of the litigation. As noted earlier, the dispute in the case relates to election of office bearers of the South Eastern Railway Mens' Union. The dispute arose at a point of time when both the appellant and the respondent No. 1 were members of the said Union. Now both have ceased to be members of the Union. Further, successive elections have been held to elect office bearers and the office bearers so elected have been recognized by the management. In the



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circumstances, continuing this litigation will be like flogging a dead horse. Such litigation, irrespective of the result, will neither benefit the parties in the litigation nor will serve the interest of the Union. Accepting the contentions raised on behalf of respondent No. 1 that the successive elections held in the meantime were invalid because he was not permitted to participate in them and to quash all such elections and direct holding of fresh elections under the supervision of the Court, will be contrary to democratic functioning of the employees' Union. Furthermore, Courts in the present situation of exploding dockets can ill afford to stand (sic spend) time in such an exercise.”

61. The very same principle was also reiterated by the Hon’ble Supreme Court in ***Shipping Corporation of India Ltd v. Machado Brothers and Others***, reported in (2004) 11 SCC 168. The court after referring to the judgment in ***Pasupuleti Venkateswarlu***, referred to *supra*, and the judgment of the Hon’ble Supreme Court of United States in ***Patterson v. State of Alabama, (294 US 600)***, concluded that by a subsequent event if the original proceedings has become infructuous, it will be the duty of the Court to take such action as it is necessary in the



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interest of justice which includes disposing of an infructuous litigation.

Therefore, the contention of Mr.G.Rajagopalan, learned Senior Counsel that the plaint and the plaint alone should be looked into and under no circumstances the Court could take note of any subsequent events pointed out by the defendants to put an end to a meritless or an infructuous litigation deserves rejection.

62. We will examine the amendment application first, before going into the question whether the plaint as it stand should be rejected or not, as order in the amendment application would have a direct effect in consideration of the issues that would arise in the applications under Order VII Rule 11 of the Code of Civil Procedure .

63. The second plaintiff herself was alive to the effect of the orders passed by the Election Commission of India in the Symbol Dispute and therefore, she sought to amend the plaint extensively as stated above. Mr.G.Rajagopalan, learned Senior Counsel would submit that the learned Trial Judge was not right in taking up the amendment application and the applications under Order VII Rule 11 of the Code of Civil Procedure together, he would submit that the amendment application ought to have



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been considered independently and the Court must have considered the Order VII Rule 11 Application vis-à-vis the amended plaint. The procedure adopted by the Trial Court in hearing all applications together, according to him, has led to the Court being guided by the fact that the Election Commission had pronounced upon the Election dispute which has been confirmed by the Hon'ble Supreme Court.

64. In answer to this submission of the learned counsel both Mr.Vijay Narayan and Mr.S.R.Rajagopal, learned Senior counsel appearing for the respondents would submit that the amendments sought for in effect substitute a completely new pliant. Mr.Vijay Narayan would submit that what was projected in the original plaint was a right of a group created by the Interim Order of the Election Commission and that was against the other group which was also a creature of the interim order of the Election Commission, what is now sought to be projected by way of amendment is the individual right of the second plaintiff, as a member of the party though she chooses to describe herself as the General Secretary.

65. The law relating to amendment under Order VI Rule 17 of the



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Code of Civil Procedure is fairly well settled. Pre-trial amendments will have to be dealt with very liberally, unless it is shown that there is a change in the cause of action or the very structure of the suit or the very basis of the suit. Considerable reliance is placed by Mr.Vijay Narayan, learned Senior Counsel on the judgment of the Hon'ble Supreme Court in *Patasibai and others v. Ratanlal*, reported in (1990) 2 SCC 42, wherein the Hon'ble Supreme Court held that an application for amendment filed as an afterthought for averting the inevitable consequence of rejection of the plaint cannot be allowed. He would invite us to extend the said principle to an amendment sought for to revive the suit which has otherwise become infructuous.

66. We do not think we can extend it to the extent the learned Senior Counsel wants us to, but, at the same time, if the amendments result in a complete revamp of the entire suit based on the subsequent events and if the nature and character of the suit itself would be altered, we have to necessarily reject the prayer for amendment. In *Revajeetu Builders and Developers v. Narayanaswamy and Sons and Others*, referred to *supra*, the Hon'ble Supreme Court had laid down certain guidelines while considering the applications for amendment, they read



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63. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment:

(1) Whether the amendment sought is imperative for proper and effective adjudication of the case?

(2) Whether the application for amendment is bona fide or mala fide?

(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money;

(4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case; And

(6) As a general rule, the court should decline



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amendments if a fresh suit on the amended claims would be barred by limitation on the date of application.

These are some of the important factors which may be kept in mind while dealing with application filed under Order 6 Rule 17. These are only illustrative and not exhaustive.

The Hon'ble Supreme Court has also pronounced on the nature of the judicial exercise that should be under taken by the Court while deciding an application under Order VI Rule 17 and in doing so, the Hon'ble Supreme Court observed as follows:

“64. The decision on an application made under Order VI Rule 17 is a very serious judicial exercise and the said exercise should never be undertaken in a casual manner. We can conclude our discussion by observing that while deciding applications for amendments the courts must not refuse bona fide, legitimate, honest and necessary amendments and should never permit mala fide, worthless and/or dishonest amendments.”



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67. It is therefore a very serious exercise, we have already extracted the various amendments that have been sought for. By the amendments what the plaintiffs want to do is to introduce a completely new set of parties to the suit, may be such introduction is necessitated by the final orders of the Election Commission passed in the Symbol Dispute on 23.11.2017, but, whether the same could be done by the Civil Court in exercise of the powers under Order VI Rule 17 is the moot question.

68. A perusal of the original plaint and the proposed amendments (see the comparative table) would show that a suit which was filed against an association of renegade persons, according to the plaintiffs, is now sought to be converted into a suit against a recognised political party. No doubt there are certain reliefs which were sought for in the original plaint that are retained and there are several additional reliefs that are now sought to be introduced. Though it is sought to be contended that the reliefs that are sought to be introduced or barred by limitation, we do not see the necessity to address the said issue.



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69. As pointed out by the Hon'ble Supreme Court in ***Revajeetu Builders and Developers v. Narayanaswamy and Sons and Others***, reported in ***(2009) 10 SCC 84***, if we find that the amendment constitutionally or fundamentally changes the nature and character of the case, the amendment has to be rejected as we had already pointed out the amendments sought for is not a mere change in the parties to the suit, it is a substitution of a totally new parties, the prayers sought for are also sought to be altered and a completely new suit by a completely different person is sought to be put in the place of the old suit and we do not think that we can permit such an exercise in the light of the law laid down by the Hon'ble Supreme Court in matters relating to amendment of pleadings. We are conscious of the fact that the power to amend is very wide and if it is found that the amendment would help in shortening the litigation, the Court should not be averse to exercising the power to allow amendment. True the Court must endeavour to prevent multiplicity of litigation, but as pointed out by the Hon'ble Supreme Court, the Judicial exercise in considering an amendment application is a very serious exercise, it should not be taken in a very causal manner.

70. The learned Trial Judge had referred to various decisions on



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the question and we do not want to repeat and over burden this judgment with plethora of precedents. The learned Trial Judge has concluded that the amendment if allowed would put in place a completely different controversy, before the Court which is not permissible. We are in complete agreement with the views expressed by the learned Trial Judge on the effect of the amendment. We therefore, do not see any reason to interfere with the order rejecting the prayer for amendment made in application IA No.11 of 2021. We therefore dismiss the Civil Revision Petition confirming the orders passed by the learned Trial Judge in IA No.11 of 2021.

71. We shall now advert to the Appeals. We have already set out the actual controversy and the scope of the Appeals. At the risk of repetition, we must point out that the scope of the Appeals before us is very narrow and we will not be justified in going into various questions argued by the learned Senior Counsel on the validity of the notice dated 28.08.2017 and the General Council Meeting held on 12.09.2017 or the entitlement of the persons, who had called for the meeting. Those questions cannot be decided at this threshold stage.



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72. Now that we have concluded that the amendment application cannot be allowed what we have is the original plaint as it was filed in the year 2017, the first plaintiff and the first defendant are no longer in existence, the third plaintiff has walked out of the litigation. Therefore, the suit as it stands today is a completely meritless suit and the second plaintiff cannot in this suit attempt to enforce her rights as the General Secretary of the All India Anna Dravida Munnetra Kazhagam.

73. It may be open to the second plaintiff to file a suit afresh, but that cannot be a consideration for deciding whether this plaint should remain on the file or not. As we have already pointed out the Hon'ble Supreme Court has held that it will be open to the Court to put an end to a infructuous litigation at any stage of the proceeding. Courts have repeatedly held that under the provisions of Order VII Rule 11 are not exhaustive and rejection can be on grounds outside Order VII Rule 11 of the Code of Civil Procedure also. As pointed out by the Hon'ble Supreme Court in *T.Arivandandam v. T.V.Satyapal and another*, referred to *supra*, a totally vexatious or meritless or infructuous litigation shall not be retained on file and it has to be thrown out. In fact, in *Shipping*

Corporation of India Ltd v. Machado Brothers and Others, referred to



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supra, the Hon'ble Supreme Court had held that if a suit becomes infructuous due to certain subsequent events is nothing wrong in the suit being thrown out.

74. We may also usefully refer to the judgment of the Division Bench of the Delhi High Court in *Aupama Gupta and Ors. v. Kuldeep Singh and Ors.* reported in, *2014 SCC Online Del 7417*, wherein the Delhi High Court had examined the issue relating to rejection of plaint under Order VII Rule 11 of the Code of Civil Procedure very exhaustively and had observed that the rejection of plaint can be made on the ground that the litigation has become infructuous. If we are to examine the case on hand in the light of the precedents that have been cited at the bar, we will have to necessarily conclude that the suit as it stands today cannot be retained on the file as the suit espouses the right of a splinter group, that was created by an interim order of the Election Commission, which has ceased to be in existence upon the final orders having been passed. We are therefore, unable to fault the Trial Court for having rejected the plaint.

75. Another contention that was advanced by Mr.S.R.Rajagopal,

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needs to be mentioned. The learned counsel relying upon the Rule 5 of the Rules and Regulations of the Party would contend that the plaintiff is no longer a member of the party, as she has ceased to be a Member due to non-renewal of her membership once in five years. Clause (a) of Sub Rule (iii) of Rule 5 and Sub Rule (vi) of Rule 5 of the Rules and Regulations of the Party read as follows:

Rule 5: Membership

(iii) a): Only those who hold their Membership Cards, issued by the Headquarters of the Party will alone be recognised as Members. Only from the date of issue of the Membership Card, a Member will become eligible to vote.

(vi): Every Member shall pay a membership fee of Rs.10 only for every five years. This fee should be remitted along with the application for membership.

76. The answer to this contention of Mr.S.R.Rajagopal by Mr.G.Rajagopalan is that since the Rule does not provide for the consequences it cannot be held to be mandatory and it can only be directory. We do not propose to pronounce on this claim also since the



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scope of the Appeals before us do not allow us to go into the merits of the contentions. Since it was the contention raised, we deem it fit to record it.

77. In the light of the above, we find that the orders of the Trial Court dismissing the Application for amendment and allowing the applications for rejection of the paint do not require interference at our hands. In fine, the Appeals and the Civil Revision Petition stand **dismissed**. Parties will bear their own costs. Consequently, the Connected miscellaneous petitions are closed.

(R.SUBRAMANIAN, J.) (N.SENTHILKUMAR, J.)
05.12.2023

jv

Index : Yes
Internet : Yes
Speaking order
Neutral Citation: Yes

To

1. The IV Additional City Civil Judge,
Chennai.
2. The Section Officer,
V.R. Record Section,
High Court of Madras.



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R.SUBRAMANIAN, J.
and
N.SENTHILKUMAR, J.

jv

Pre-delivery judgment in
A.S.Nos.337, 338 & 339 of 2022
and Civil Revision Petition No. 2347 of 2022
and Connected Miscellaneous Petitions

05.12.2023