



C.R.P(MD)No.485 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.02.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.485 of 2023

and

C.M.P(MD)No.2345 of 2023

M/s.Sigma Technologies,
Represented by its Managing J.Ramesh.

... Petitioner/Respondent/
Plaintiff

Vs.

M/s.Kumbakonam Mutual
Benefit Fund Nidhi Limited,
Represented by its Chairman.

... Respondent/ Petitioner/
1st Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 24-01-2023 passed by the learned Principal District Judge, Tiruchirappalli in memo dated 24-11-2022 in O.S.No.209 of 2022.

For Petitioner : Mr.A.Adithya

For Respondent : Mr.S.Parthasarathy



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ORDER

The present revision petition has been filed by the plaintiff in a commercial suit in C.O.S.No.209 of 2022 pending on the file of Principal District Court, Thiruchirapalli.

2. The said suit has been filed by a company represented by its Managing Partner, Mr.J.Ramesh. Pending suit, the 1st defendant had filed a memo on 24.11.2022 objecting to the fact that the 1st defendant cannot be represented by its Chairman, but they have to be represented only by the General Manager as per the Articles of Association and Memorandum of Association of the 1st defendant company. After going through the Memorandum of Association and Articles of Association, the learned trial Judge has allowed the said memo and has directed the plaintiff to amend the cause title relating to the 1st defendant with regard to the fact that who should represent the 1st defendant company. Challenging the said order, the present revision petition has been filed.

3. According to the learned counsel for the petitioner, the plaintiff is the dominus litis and it is for them to decide who should represent the



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1st defendant company. He has further contended that the plaintiff company is discussing the issue only with the Chairman of the 1st defendant company and therefore, according to the plaintiff, only the Chairman of the 1st defendant company is the correct person to represent the 1st defendant company. He further contended that the trial Court cannot allow the memo and direct the plaintiff to amend the cause title of the 1st defendant when he is the dominus litis.

4. Per contra, the learned counsel for the respondent/ caveator has contended that as per the Memorandum of Association and Articles of Association, only the General Manager is empowered to represent the 1st defendant company. He further submitted that the both the defendants have filed their written statement on 17.02.2023 and in the said written statement, an objection has already been raised with regard to the lacuna in the representation of the 1st defendant company. Therefore, according to the learned counsel appearing for the caveator, the order in the memo should be complied with by the plaintiff and the revision may be dismissed.

5. I have carefully considered the submissions made on either side.



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6. The 1st defendant by way of Memo, dated 24.11.2022 has brought to the notice of the Court that 1st defendant company has not been represented by the proper person as contemplated under the Memorandum of Association and Articles of Association. The order passed by the learned Principal District Judge on 24.01.2023 can only be considered to be an information to the plaintiff to correct or amend the cause title of the 1st defendant company in accordance with the memo. It is for the plaintiff to carry out the said amendment. The option is left to the plaintiff. The alleged lacuna with regard to the representation of the 1st defendant company has been raised in the written statement filed by both the defendants on 17.02.2023. In case, if the plaintiff is not willing to abide by the order passed by the learned Principal District Judge in order, dated 24.01.2023, it is for the defendants to raise this issue during trial. Therefore, it is clear that the order passed by the learned Principal District Judge on 24.01.2023 cannot be imposed upon the plaintiff and it is left to the option of the plaintiff to make amendments, if they are so advised. If the plaintiff is advised to amend the cause title as per the memo, they shall do it on or before 20.03.2023. Thereafter, they cannot make any amendments based on the order, dated 24.01.2023. The same



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shall be done on or before 20.03.2023. However, thereafter, the plaintiff shall not be entitled to take advantage of the order passed by the Principal District Court in memo, dated 24.01.2023.

7. With these observations, this civil revision petition stands disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

24.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The Principal District Court,
Thiruchirapalli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
C.R.P(MD)No.485 of 2023

24.02.2023