



C.R.P.No.3039 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 22..10..2024

Coram

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition No.3039 of 2024

and

C.M.P.No.16345 of 2024

Ootacamund Club
Rep. by its President,
Having its Registered Office
at No.179, Club Road,
Ootacamund, The Nilgiris.

..... Petitioner

-Versus-

Lieutenant Colonel Sandeep Dewan (Veteran)

..... Respondent

Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 24.06.2024 made in I.A.No.5 of 2023 in O.S.No.68 of 2022 by the learned District Munsif, Udthagamandalam, the Nilgiris District.

For Petitioner : Mr.Suhrith Parthasarathy

*For Respondent : Lieutenant Colonel Sandeep
Dewan (Veteran) / Party-in-
Person*



C.R.P.No.3039 of 2024

WEB COPY

ORDER

This civil revision petition is at the instance of the defendant in the suit.

2. For the sake of convenience, the parties will be referred to as per their rank in the suit.

3. O.S.No.68 of 2022 was initiated by the plaintiff seeking a relief of declaration that his suspension dated 26.04.2022 is null and void and for the relief of permanent injunction restraining the defendant from taking any further disciplinary action against him on the basis of the show cause notice dated 26.04.2022. This plaint was presented on 18.05.2022. On service of summons, the defendant entered appearance and filed a detailed written statement on 31.08.2022.

4. Thereafter, the plaintiff took out an application for amending the plaint to incorporate certain facts, which, according to him, are relevant for the purpose of proving his case, and also sought to amend the prayer by incorporating two reliefs.



C.R.P.No.3039 of 2024

WEB COPY

5. Notice was ordered in the said application, and the learned District Munsif proceeded to allow the amendment application as prayed for on 24.06.2024. Hence, this revision.

6. I heard Mr.Suhrith Parthasarathy for the civil revision petitioner and Lieutenant Colonel Sandeep Dewan, the respondent who appeared in person.

7. Mr.Suhrith Parthasarathy draws my attention to Page 94 of the typed set of papers, in particular, paragraph 10 therein. He points out that the plaintiff now seeks, by way of amendment, damages as well as a direction to the court to initiate civil and criminal proceedings against the President of the Club for allegedly falsifying the records. He points out that the facts, which are sought to be introduced by way of amendment, were already available to the plaintiff when he presented the plaint and hence, they should not be permitted to be introduced by way of an amendment.

8. Lieutenant Colonel Sandeep Dewan submits that these facts came to his knowledge subsequent to the presentation of the plaint and it is for that purpose, he had taken out an application for amendment. With respect to the



C.R.P.No.3039 of 2024

prayers, he states that the court is empowered to grant damages in addition to the relief of injunction that he had sought for originally and invites my attention to Section 40 of the Specific Relief Act, 1963. He asserts that the report, on the basis of which action had been initiated against him by the defendant is a fabricated document and a result of falsification of records, and hence, he has sought the second prayer.

9. I have carefully considered the submissions made on either side and I have gone through the records.

10. The purpose of Order VI, Rule 7 of CPC is to enable a litigant to bring all available facts, that come to his knowledge, after the presentation of the plaint to the attention of the court. The specific plea of the party in person is that the facts pleaded from Paragraph 9 at Pages 87 to 94 of the typed set of papers came to his knowledge only after he had challenged the show cause notice dated 26.04.2022. The power under Order VI, Rule 17 of CPC is wide enough to include situations which are pleaded by the party in person. The learned District Munsif has specifically found that certain facts that are sought to be incorporated relate to actions that had been taken against the other members of the club. If these actions have been brought to the notice of the



C.R.P.No.3039 of 2024

plaintiff subsequently, he is entitled to certainly amend the plaint to that effect.

WEB COPY

11. At this stage, Mr.Suhrith Parthasarathy points out that certain allegations that have been made are scandalous. If that be so, the Code of Civil Procedure enables the defendant to take out an appropriate application to strike off the pleadings that the court finds scandalous and unnecessary for the purpose of the case. The said issue need not be considered at the time of allowing amendment application. This is because only after the pleadings are incorporated and the amendment has been served on the defendants does he get a cause of action to move an application for striking off.

12. Insofar as the prayer under clause (e) of Para 34 of the amended plaint is concerned, even without a prayer for cost or damages, as pointed out by the party in person, under Section 40 of the Specific Relief Act, 1963, the court is empowered to grant damages in addition to or in substitution of the relief of injunction. This is the power which is available to the court at all points of time, and, therefore, even without a specific prayer to that effect, the



C.R.P.No.3039 of 2024

court is always entitled to grant the relief as it thinks fit at the time of disposal of the suit. Therefore, by incorporating the prayer under clause (e) , the plaintiff merely wants to remind the court that it has power and that it should be enforced against the defendant. Therefore, with respect to incorporation of facts in para 9 and clause (e) in the prayer, I am not inclined to entertain the revision petition.

13. However, as rightly pointed out by Mr.Suhrith Parthasarathy when the plaintiff has already initiated proceedings under Section 340 of the Code of Criminal Procedure and when this court has directed the said application to be tried at the time of disposal of the suit, a separate prayer seeking a direction to the court to initiate proceedings against the President of the Club is not maintainable. It is not the duty of the civil court to initiate proceedings against a party who has uttered falsehood before the court. As opined by Justice J.R.Midha, it is the court which is on trial because both the parties know what is truth in the matter. If the court has to initiate civil and criminal proceedings against the parties for having uttered falsehood, then, in every proceeding, the court would be the plaintiff. Such is not the manner in which the CPC proceeds. The relief that the plaintiff has sought under clause (f) of the prayer is already covered in his application filed for initiation of proceedings under



C.R.P.No.3039 of 2024

Section 340 of Cr.P.C. in I.A.No.1 of 2024. Hence, it is rejected.

WEB COPY

14. Leaving it open to the parties to contest I.A. No.1 of 2024, the amendment sought for being not within the scope of the suit stands dismissed. To make it clear, the respondent who appeared as party in person is entitled to pursue the remedy that he seeks in prayer (f) in the application in I.A.No.1 of 2024 before the learned District Judge at Udhagamandalam, The Nilgiris District.

In the light of the above discussion, the civil revision petition is partly allowed. The amendment, insofar as the prayer (f) is concerned, will stand dismissed. It stands upheld insofar as the other relief sought for. No costs. Consequently, connected CMP is closed.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

22..10..2024

To

1.The District Munsif, Udhagamandalam, The Nilgiris District.



WEB COPY



C.R.P.No.3039 of 2024



WEB COPY



C.R.P.No.3039 of 2024

V.LAKSHMINARAYANAN.J.,

kmk

C.R.P.No.3039 of 2024

22..10..2024