



S.A(MD).No.118 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2024

CORAM

THE HON'BLE MR.JUSTICE S.SOUNTHAR

S.A.(MD).No.118 of 2015
and MP(MD).No.1 of 2015

V.Sundaramoorthy

**...Appellant/
Appellant/Plaintiff**

Vs

**1.The Inspector General of Registration,
Santhome High Road,
Raja Annamalaipuram,
Chennai - 600 028.**

**2.The District Registrar(Admin),
1-A, Thiruppathur Road,
Sivagangai Town & District.**

**3.The Paramakudy Vaniyar Uravin
Uravin Muraiyalargalin Pothu Sabai,
Represented by its President
No.8/191, Kannagi Street,
Paramakudy Town,
Ramanathapuram District.**

**...Respondents/
Respondents/Defendants**

PRAYER: Second Appeal is filed under Section 100 of CPC, against the judgment and decree dated 09.07.2014 made in A.S.No.65 of 2012 on the file of Sub Court, Paramakudi confirming the judgment and decree dated



S.A(MD).No.118 of 2015

13.07.2012 made in Unfiled O.S.No. of 2012 on the file of District Munsif Court, Paramakudi.

For Appellant : Mr.S.Sivathilakar
For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader
for R1 & R2
Mr.M.Mohamed Ibram Saibu
for M/s.Ajmal Associates for R3

JUDGMENT

The plaintiff is the appellant. He filed a suit for declaration that registration of the resolution dated 14.12.2003 as per the Lr.No.700/A2/2009, dated 15.06.2009 was null and void and for consequent injunction restraining the third defendant not to entertain the affairs of the Society based on the registration of the resolution. The plaint was rejected by the trial Court on the ground that there was no cause of action for the plaintiff to maintain the suit. Aggrieved by the same, he filed an appeal and the first appellate Court affirmed the findings of the trial Court. Challenging the concurrent findings against him, he has preferred the present second appeal.



S.A(MD).No.118 of 2015

2. At that time of admission, this Court framed the following substantial questions of law by an order dated 18.02.2015:

“1) Whether the Court below are correct in law in rejecting the plaint suo moto on the ground there is no cause of action and material evidence, when the appellant has filed the relevant resolution along with the plaint to disclose cause of action as required under Order 7 Rule 11(b) of CPC?

2) Whether the Courts below are correct in law in following the procedure at the time of admission of the plaint as required under relevant provision of CPC?

3) Whether the Courts below have jurisdiction to reject the plaint suo moto, when it is the duty of the trial Court to take note of the pleadings alone in the plaint during the presentation of the plaint and when the plaintiff/appellant has disclosed cause of action in the suit?

4) Whether the Courts below are correct in law in not following the mandatory procedure as contemplated under Order 7 Rule 13 of CPC before dismissing the suit in entirety without giving any liberty to present fresh plaint on the same cause of action?

5) Whether the lower Appellate Court is correct in law in not framing points for determination as required under Order 41 Rule 31 of Civil Procedure Code?”



S.A(MD).No.118 of 2015

3. The appellant herein sought for the following prayers:

“a)declaring that to declare the act of registering the resolution taken on 14.12.2003 as per the Lr.No. 700/A2/2009 dated 15.06.2009 is null and void.

b) Granting permanent injunction by restraining the 3rd defendant not to be entertain the affairs of the society owing to the registration of the resolution taken by the 2nd defendant on 14.12.2003 vide Lr.No.700/A2/2009/ dated 15.06.2009 in lieu of the amended bye-law.”

4. This Court has gone through the plaint averments and the same is not happily worded. The cause of action paragraph of the plaint reads as follows:

“cause of action arose in the suit as Paramakudi Vaniyar Uravin Murayarkalin Pothu Sabai registered under this Act had no resemblance upon the co-ordination with the provisions of the Act enduring the specification regarding the amendment of bye-laws as per the act was not in continuation while the earlier proceedings were pending for to taken on file by the District Registrar where the acceptance of registering the resolution taken 14.12.2003 through his office Lr.No.700/A2/2009 for initiation of the suit against the society which within the jurisdiction of this Court.”



S.A(MD).No.118 of 2015

5. A reading of cause of action paragraph would suggest that there is no clarity in the pleadings and the appellant has not clearly stated how the resolution dated 14.12.2003 is deserved to be declared as null and void. The injunction prayer in the plaint extracted above is also not happily worded so as to convey the definite meaning. If the plaintiff failed to plead the exact cause of action for the suit, the trial Court is entitled to reject the plaint even without numbering of the same. In the order rejecting the plaint, it was recorded by the trial Court that the plaintiff represented before it, as if he was expelled from the third respondent Sabai and that he had started a new society. If the plaintiff is not the member of the Society on the date of filing of the suit, he is not entitled to challenge the registration of the resolution. Therefore, after taking into consideration the plea raised by the plaintiff, the trial Court rightly came to the conclusion that the plaint did not disclose any cause of action and rejected the same.

6. Aggrieved by an order rejecting the plaint, the plaintiff preferred an appeal in A.S.No.65 of 2012 on the file of the Sub Court, Paramakudi. The first appellate Court also observed that the cause of action paragraph of the plaint does not indicate in what way, the plaintiff was affected by the



S.A(MD).No.118 of 2015

resolution of the third defendant. The first appellate Court also observed that the petitioner was expelled from the third respondent and he failed to question the same in the manner known to law.

7. Based on the pleadings, it was also found that plaintiff formed a new Sabai in the name of Paramakudi Vaniyar Murayarkalin Pothu Sabai. Therefore, being a third party, the plaintiff was found to be not a person aggrieved by the resolutions passed by the third respondent Sabai. Therefore, the first appellate Court affirmed the findings of the trial Court that the averments in the plaint do not disclose any cause of action in support of the prayer made in the plaint.

8. Accordingly, the first appellate Court affirmed the order of the rejection of the plaint. It is settled law that at the stage of rejecting the plaint, the Court is governed by the averments found in the plaint and the documents filed along with the plaint. When the plaintiff failed to plead, how the resolution passed by the third respondent affects his rights, there is no cause of action for seeking declaration that the registration of the resolution was null and void. As mentioned earlier, the averments in plaint,



S.A(MD).No.118 of 2015

especially the averments in the cause of action paragraph, are not clear or capable of conveying certain meaning.

9. In the circumstances, the Courts below are justified in ordering rejection of the plaint. Therefore, all the substantial questions of law framed at the time of admission are answered against the appellant and as a consequence, this Second Appeal stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

24.04.2024

1/2

Internet: Yes/No
Index: Yes/No
RJR

To

1. The Sub Court, Paramakudi.
2. The District Munsif Court, Paramakudi.
3. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai.

7/8



WEB COPY



S.A(MD).No.118 of 2015

S.SOUNTHAR, J.

RJR

**S.A.(MD).No.118 of 2015
and MP(MD).No.1 of 2015**

24.04.2024

1/2