



S.A(MD).No.119 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.119 of 2015

V.Sundaramoorthy

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

VS

**1.The Secretary, Commercial Tax and
Registration Department Tamil Nadu,
Government Secretariat,
Saint George Fort,
Chennai - 600 009.**

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

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

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

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



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PRAYER: Second Appeal is filed under Section 100 of CPC, against the judgment and decree dated 09.07.2014 made in A.S.No.66 of 2012 on the file of Sub Court, Paramakudi confirming the judgment and decree dated 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 to R3
Mr.M.Mohamed Ibram Saibu
for M/s.Ajmal Associates for R4

JUDGMENT

The plaintiff in the suit is the appellant. The plaintiff namely the Paramakudi Vaniyar Sangam represented by its President V.Sundaramoorthy filed a suit seeking declaration that the committee elected on 21.01.2010, in the general body meeting of the fourth defendant Sabai was null and void.

2. The plaintiff also sought for other reliefs. The plaint was rejected by the trial Court on the ground that it did not disclose any cause of action. Aggrieved by the same, the plaintiff preferred an appeal. The first appellate



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Court affirmed the findings of the trial Court. Challenging the concurrent findings, the plaintiff has come by way of this second appeal.

3. At the time of admission, this Court formulated the following the 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?”

4. The plaintiff sought for the following reliefs in the plaint.

“a)Declare that the committee elected on 21.01.2010 in the general body meeting as per the announcement issued by the committee of the Paramakudy Vaniyar Uravin Murayarkalin Pothu Sabai is null and void.

b) Directing the defendants to publish the paramakudy Vaniyar Uravin Murayarkalin Pothu Sabai functioning against the provisions of the Act as defunct in the official Gazatte of Tamil Nadu.

c) Directing the 3rd defendant to strike the name of the society in the Register and publish the strike off notice in the official Tamil Nadu Government Gazette.

d) Directing the 1, 2nd defendant to take action against the 3rd defendant and the committee of the paramakudy Vaniyar Uravin murayarkalin Pothu Sabai for the violation of Act and Rules made there under during the period of 1981-1985, 1996-2001, 2001-2006, 2006-2009, 2009-2012 respectively.

f) Granting such other reliefs as this Court deems fit and necessary in the circumstances of the case and thus render justice.”



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5. This Court has gone through the plaint averments and the same is not happily worded. The plaint averment is not capable of conveying certain meaning. Therefore instead of discussing the plaint averment in nutshell, I proceed to extract cause of action paragraph in its entirety. The cause of action paragraph of the plaint reads as follows:

“The cause of action arose for the suit commenced on 21.01.2010 when the announcement made by the committee of the Paramakudy Vaniyar Uravin Murayarkalin Pothu Sabai, filed to comply the provision under sub clause (b) of sub Section (3) of Section 16 of Tamil Nadu Societies Registration Act read with rules 22(a)(b) impeached the reneged of the duty of the 1 to 3 defendants who conferred with powers under the provisions respectively Section 54, Section 52, Section 49 had no any force while the rejection of condonation made by the 1st defendant against the society on an application for to condone the delay in submitting the documents as to the reason for failure to comply the provision of the Act under Section 32, 33 read with rules 32, 33 and therefore liable for enquiry to fit for cancellation of the registration has been held in pursuance of the reports sent by the 3rd defendants on 16.09.2010 and on various dates 30.06.2010, 30.08.2010 exclusively, resulted in



preferring appeal and the committee of the Paramakudy Vaniyar Uravin Murayarkalin Pothu Sabai failed to comply the provision of the Act while the recommendation for cancellation of the registration of the said society had been done as per the instructions of the second defendant to assure the cancellation had to be followed by the third defendant in his Lr.No.5063/A2/2009 dated 05.05.2011 gave the effect of cancellation according to the Section 37(c) of the Tamil Nadu Societies Registration Act even when the derogation found in particularly in the Section 16 and as well as the act of mundane of the 1 to 3 defendants from 2008-2009, 2009-2010, 2010-2011, to explain and allured the Section 44 of the Tamil Nadu Societies Registration Act as per the reports of the Hanumandan Associates at Madurai which copy issued on the day of the issuance of notice under Section 80 of CPC on 02.02.2012 and subsequent dates of reports of the 3rd defendant incoordination with the corrupted society laid on within the jurisdiction of this Court.”

6. From the cause title mentioned in the plaint, it is clear that the plaintiff is Paramakudi Vaniyar Sangam represented by its President V.Sundaramoorthy. The said Sangam seeks a declaration that the committee elected on 21.01.2010 by the General Body meeting of the fourth defendant



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Sangam as null and void. The plaintiff is not an individual and the plaintiff

Sangam is not the member of the fourth respondent Sabai.

7. In these circumstances, the plaintiff Sangam is a separate body which is not entitled to challenge the election conducted in the General Body meeting of the fourth defendant Sangam. Only the members of the fourth defendant Sangam are entitled to challenge the election. Though the trial Court rejected the plaint on the ground that it did not disclose any cause of action and the plaintiff had no *locus standi* to file the suit, the first appellate Court rightly found that the plaintiff was not a member of the fourth defendant Sabai and it was a separate Sangam namely Paramakudi Vaniyar Sangam. When the plaintiff is not the member of the fourth defendant Sabai, the plaintiff cannot be treated as a person aggrieved by election of committee by the fourth defendant/respondent Sangam. Therefore, the first appellate Court rightly came to the conclusion that the plaintiff was not a person interested in the activities of the fourth defendant Sabai and plaintiff has no cause of action to challenge the same. Hence, the plaint was rejected.



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8. The prayer in the plaint and the cause of action paragraph were extracted above. A reading of the same would suggest the prayer as well as the cause of action paragraph were not happily worded and it does not convey any meaning or cause of action in support of the prayer sought for. Therefore, the Courts below are justified in coming to the conclusion that there was failure of cause of action. Accordingly, the questions of law framed at the time of admission are answered against the appellant and in favour of the respondent. Therefore, this Second Appeal stands dismissed. No costs.

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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.



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