



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:19.06.2025

Pronounced on:22.08.2025

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CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. No.262 of 2025
and CMP. No.1659 of 2025**

- 1.The Coimbatore and Periyar District Dravida,
Panchalai Thozhilalar Munnetra Sangam,
Regn. No.2658, Rep by its General Secretary,
Having its Registered Office at
No.69, Tatabad 3rd Street,
Coimbatore – 641 012.
- 2.S.Duraisamy
- 3.M.Thiyagarajan
- 4.P.Saravanakumar
- 5.V.Shanmugasundaram
- 6.Subramanian
- 7.A.Palanisamy
- 8.P.Govindasamy
- 9.M.Palanisamy
- 10.S.Kaliappan
- 11.B.Easwaran
- 12.V.Srinivasan
- 13.A.Saminathan
- 14.M.Sivalingamoorthy
- 15.K.P.Senthilkumar
- 16.Ayyamuthu
- 17.Ponraj
- 18.Magudeeswaran
- 19.V.Suganan
- 20.R.Thangaraj
- 21.K.Murugesan
- 22.Saminathan
- 23.M.Ranganathan



24.P.S.Rajendran
25.S.Velusamy

Petitioners

Vs

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1.S.Parthsarathy
2.V.Pandi
3.M.Sivakumaran
4.M.Arumugham
5.R.Nagendran
6.The Additional Registrar of Trade Union
cum The Joint Commissioner of Labour,
Dr.Balasundaram Road,
Coimbatore 641 018.

Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 02.11.2023 made in I.A. No.8 of 2023 in O.S. No.1204 of 2020 on the file of the II Additional District Munsif, Coimbatore.

For Petitioners : Mr.N.Sridhar
for Mr.R.Bharathikumar

For Respondents : Mr.N.R.Elango,
Senior Counsel for
Mr.T.Vijay for R1 to R4
Mr.T.Arunkumar,
Additional Government Pleader
for R6
No Appearance for R5

ORDER



The defendants 2 to 26, aggrieved by the order of dismissal of I.A. No.8 of 2023, in O.S. No.1204 of 2020 on the file of the II Additional District Munsif Court, Coimbatore are the revision petitioners.

2. The revision petitioners had filed an Application to reject the plaint under Order VII Rule 11 CPC on the ground of the suit being an attempt at re-litigation, abuse of process of law and also on the ground that the plaint did not disclose any cause of action. On enquiry, the Trial Court has dismissed the Application holding that the plaint discloses a clear cause of action and it can be established only after a full trial.

3. I have heard Mr.N.Sridhar, for Mr.R.Bharathkumar, learned counsel for the revision petitioners and Mr.N.R.Elango, learned Senior Counsel for Mr.T.Vijay, learned counsel for the respondents 1 to 4 and Mr.T.Arunkumar, learned Additional Government Pleader for the sixth respondent.

4. The learned counsel for the petitioners Mr.N.Sridhar would primarily contend that the first petitioner Trade Union/Sangam (in short 'Trade Union') has been formed in the year 1959 and the members have



been in actual and real management and the plaintiffs are an interlopers, who have no iota of right. It is further contended that the plaintiffs are not even members of the Trade Union and challenging an earlier Election held in the year 2008, the suit was filed by the very same plaintiffs, who have been found to be only members of a rival Trade Union and have no right to challenge the Elections held to the revision petitioners' Trade Union.

5. Mr.N.Sridhar, learned counsel would further contend that the First Appeals filed in A.S.Nos.369 of 2014 and 370 of 2014, challenging the common judgment of the District Court were also dismissed, and as against which, SLP. Nos.4874 of 2018 and 4891 of 2018 were filed by the plaintiffs and subsequently, the SLPs were disposed of, observing that the elections for the Trade Union were due in the month of December 2019 and that the Hon'ble Supreme Court hoped and trusted that the ensuing elections would be held appropriately, in accordance with rules and regulations. Liberty was also granted of the Registrar of the Trade Union in the District to appoint an appropriate person to oversee the election. Alleging disobedience of the order of the Hon'ble Supreme Court dated 25.11.2019, a Contempt Petition came to be filed in



Contempt Petition No.535 of 2020. However, on 12.10.2020, the Contempt Petition was dismissed, reserving liberty to the petitioners viz., the respondents herein to challenge the election independently, in accordance with law.

6. The revision petitioners filed a Miscellaneous Application in MA. No.1274 of 2021 seeking clarification of the order dated 12.10.2020, giving liberty to the respondents herein. On 12.11.2021, the Hon'ble Supreme Court disposed of M.A. No.1724 of 2021, according permission to the Applicants viz., the petitioners herein to withdraw the Miscellaneous Application, with liberty to raise all contentions before the Trial Court including maintainability, further, stating that all issues shall be decided by the Trial Court, in accordance with law.

7. In the meantime, the second suit in O.S. No.1204 of 2020 had been filed by the respondents herein seeking for a declaration that the election of the first petitioner's Trade Union, held on 24.12.2019 was to be declared as null and void and to direct the 6th respondent to conduct a fresh election of the first petitioner/Trade Union and for permanent injunction against the revision petitioners from acting as office bearers



and from taking possession of the properties of the Trade Union.

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8. It is in the said factual background that the petitioners have taken out I.A. No.8 of 2023 for rejection of the plaint. The thrust of the arguments of the learned counsel for the petitioners, Mr.N.Sridhar are briefly enumerated hereunder:

(i) The plaintiffs have no locus to question the election of the first petitioner/Trade Union, because they are not members of the first petitioner Union but only members of a rival Trade Union.

(ii) The earlier judgment of the District Court, Coimbatore in O.S. Nos.228 & 610 of 2010, has categorically found that the plaintiffs are not members of the first revision petitioner Union and the same has attained finality.

(iii) Further, even the liberty granted to the plaintiffs is not a blanket liberty, entitling the plaintiffs to seek for any relief, and the use of the words, 'in accordance with law', according to the learned counsel for the petitioners would only mean that subject to the availability of right to sue or locus of the plaintiffs to file a suit.

(iv) He would therefore submit that the plaint clearly does not disclose a cause of action and in view of the rights of the plaintiffs



already being conclusively decided in the earlier suits where the findings that the plaintiffs were only members of a rival Union and cannot validly claim to be elected office bearers of the Trade Union, has become final.

(v) The Trial Court has not considered any of the objections of the revision petitioners and has merely dismissed the Application holding that the facts set out in the plaint constitutes a cause of action and that the allegation made in the plaint can only be decided after trial.

9. The learned counsel for the petitioners has relied on the following decisions (i) *The Correspondence vs, RBANMS Educational Institution Vs. B.Gunashekar and others*, reported in, 2025 INSC 409 and (ii) *HPCL Bio-Fuels Limited Vs. Shahaji Bhanudas Bhad*, reported in 2024 INSC 851.

10. Per contra, Mr.N.R.Elango, learned Senior Counsel appearing for the respondents/plaintiffs would contend that the question of re-litigation does not arise in the present case and the arguments of the petitioners is illusory in nature. He would refer to the reliefs in the earlier suit and the present suit and pointing out that the elections of the Union held in the year 2010 alone was the subject matter of earlier proceedings,



which attained finality before the Hon'ble Supreme Court and presently, the second suit is in respect of 2019 election. He would therefore contend that in the interregnum period, whether the plaintiffs have become members of the first petitioner Trade Union are all matters that can be decided only after the parties lead evidence.

11. He would further state that the respondents have misappropriated funds of the first petitioner/Trade Union and the plaintiffs having a duty to protect the assets of the first petitioner Union, have come forward with the present suit. He would further contend that the members of the first petitioner Trade Union had been inflated and the entire election process was a total farce and between 2019 and 2021, the properties of said Union have been sold left, right and centre and only in order to establish all these acts of misfeasance, the present suit has been filed. He would therefore state that the Trial Court has rightly dismissed the Application seeking to reject the plaint holding that the plaint discloses cause of action. He would also contend that when the Hon'ble Supreme Court has granted liberty, while dismissing the SLP, to challenge 2019 election, the plaint cannot be rejected and necessarily, the parties have to undergo trial and the plaint cannot be thrown out at the threshold,



depriving the plaintiffs of a fair opportunity to establish the allegations made in the plaint.

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12. I have carefully considered the submissions advanced by the learned counsel on either side.

13. No doubt, as rightly contended by the learned Senior Counsel Mr.N.R.Elango, the election that was subject matter of the earlier suits was the election of the year 2010 and what is now under challenge is the election in the year 2019. The case of the revision petitioners/defendants is that the issues in the earlier suit have conclusively determined the rights of the parties and therefore, the second suit is a sheer and gross abuse of process of law and when it has been categorically found that the respondents/plaintiffs are not members of the first revision petitioner Trade Union, they have no locus to file the present suit questioning the actions of the first petitioner Union. In fact, it is also contended that the plaintiffs are members of the rival Trade Union.

14. It is seen that earlier, the suit has been filed in O.S. No.228 of 2010 by the first revision petitioner, Union, challenging an election held



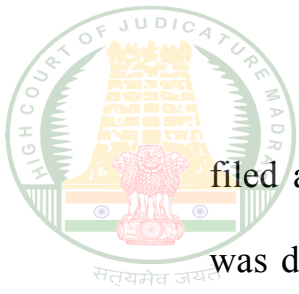
on 24.03.2010, in and whereby, the respondents herein and four others, have conducted an election to the first petitioner, as null and void and invalid and for permanent injunction to restrain the respondents herein and four others from functioning as office bearers in the first petitioner Union.

15. On the other hand, I find the respondents 2 and 3 along with two other persons filed a suit in O.S. No.615 of 2010 seeking to restrain the defendants, some of the revision petitioners herein and others from functioning as the office bearers of the first petitioner Union and the said suits were jointly tried before the First Additional District Court, Coimbatore and the Trial Court found that the election of first petitioner Union held by the plaintiffs and others on 24.03.2010 was invalid and the appointment of the plaintiffs to the governing body of the first petitioner Union was null and void. The Trial Court also granted a permanent injunction restraining the plaintiffs herein from functioning as office bearers of the first petitioner Union besides declaring the second, third and twelfth petitioners herein as duly elected Secretary, President and Treasurer of the first petitioner Union.



16. The suit filed by the respondents 2 and 3 in O.S. No.615 of 2010, was dismissed. In the said judgment, the Trial Court has found that the plaintiffs have failed to establish that they are duly elected office bearers of the first petitioner Union and that the plaintiffs are in fact members of the first plaintiff's Union. The common judgment was challenged by the plaintiff's herein in A.S. Nos.369 of 2014 and 370 of 2014 before this Court, this Court, in and by judgment dated 27.06.2017, dismissed both the Appeals finding that the first respondent was the General Secretary of rival Trade Union of the first petitioner and that the plaintiffs/respondents 1 to 5 are not members of the first petitioner Trade Union.

17. Aggrieved by the concurrent findings, the plaintiffs moved the Hon'ble Supreme Court and as already discussed, Special Leave Petitions were dismissed. However, the Hon'ble Supreme Court had observed that the elections to be held in December 2019 would be conducted in accordance with rules and regulations and it was open to the Registrar of Trade Union in the District to appoint an appropriate person to oversee the Elections. Complaining that the said order of the Hon'ble Supreme Court dated 25.11.2019 was breached by the petitioners, the respondents



filed a contempt petition. However, Contempt Petition No.535 of 2020 was dismissed by the Hon'ble Supreme Court on 12.10.2020, by giving liberty to the respondents herein to challenge the elections independently, in accordance with law. It is thereafter in December 2020, taking advantage of the liberty granted to challenge the elections, the plaintiffs/respondents 1 to 5 have filed the subsequent suit viz., the present suit, which is sought to be rejected in O.S. No.1204 of 2020, challenging the 2019 election and to direct the 6th respondent to conduct fresh election and also for the releif of permanent injunction to restrain the revision petitioners from acting as office bearers and from taking possession of the properties of the first petitioner Trade Union.

18. The contention of the petitioners is that the issue whether the plaintiffs are members of the first petitioner Union has been conclusively decided in the earlier proceedings and therefore, the said issue cannot be re-agitated over and again. It is also contended that the liberty granted by the Hon'ble Supreme Court cannot be misused by the plaintiffs and liberty can be availed of only in accordance with law and if at all the plaintiffs have any right to sue.



19. Per contra, it is contended by the respondents that in view of the liberty granted by the Hon'ble Supreme Court permitting the plaintiffs to challenge the 2019 election and also observations made while disposing of the SLP that the Registrar of the District concerned can oversee the elections, the plaintiffs are well within the rights to challenge the 2019 election and also seek fresh elections to be conducted by the 6th respondent.

20. Insofar as the issue of *res judicata*, though the arguments of the learned Senior Counsel Mr.N.R.Elango, appears to be attractive at first blush, on a proper introspection and examination of on the entire facts and circumstances, the core issue in the earlier litigation was with regard to the right of the plaintiffs to interfere with the functioning of the first petitioner Union. In the said suits, categorical findings were rendered that the plaintiffs are not members of the first petitioner Union and in fact they are members of a rival Union and therefore, they were not entitled to challenge the election. Merely because, a subsequent election has been conducted in the year 2019, it would not clothe the plaintiffs with a right to challenge the said election, claiming that the cause of the action is entirely different and that the earlier election that was challenged was of the year 2010 and the present election that is challenged in the year 2019.



What is relevant is only the right of the plaintiff to challenge the election to the first petitioner Association.

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21. In and by the common Judgment rendered on 25.03.2014, the Trial Court has categorically found that the plaintiffs are not members of the first petitioner Union and they have no locus to challenge the election of the first petitioner Union. Therefore, in my considered opinion, it does not matter that the present challenge is to an election of the year 2019. The rights of the plaintiffs have already been foreclosed and finally decided upto the Hon'ble Supreme Court. The only window that is open is the liberty granted by the Hon'ble Supreme Court, while dismissing the SLPs, confirming the concurrent findings of the District Court as well this Court in First Appeal. No doubt, the plaintiffs were given liberty to challenge the elections in accordance with law. However, the same came to be clarified subsequently by the Hon'ble Supreme Court, in a Miscellaneous Application, stating that it would be open to the revision petitioners to canvass all their objections, including the maintainability of the suit. Therefore, the petitioners have exercised their option to have the plaint rejected by moving an Application under Order VII Rule 11 CPC. The Trial Court has unfortunately in a summary fashion, held the plaint



discloses a cause of action and therefore, the plaint cannot be rejected at the threshold and further held that since the Hon'ble Supreme Court has granted liberty, the parties have to necessarily undergo the process of trial.

22. The liberty granted by the Hon'ble Supreme Court cannot be used as a shield by the plaintiffs to clothe them with a right that did not exist in the first place. In the earlier litigation, the plaintiffs have been found to be not members of the petitioner Union and unless, it is the case of the plaintiffs that subsequently, they have become members of the Union, if at all, it may give a cause of action for filing the present suit. On going through the plaint, I do not find even a whisper about the plaintiffs becoming members of the first petitioner Trade Union/Sangam subsequently. The liberty granted by the Hon'ble Supreme Court is taken advantage of and allegations are made against the revision petitioners on the ground of defraying of Trust properties and also elections conducted in December 2019, being a farce.

23. First of all, the plaintiffs have to show that they have a right or locus to question all these, viz., the elections held in December 2019 or



the acts of the members of the first petitioner Union. The plaintiff does not even speak about how the plaintiffs, despite the earlier binding judgment and decree, are entitled to maintain the present suit. The liberty granted by the Hon'ble Supreme Court is the only weapon that is used by the plaintiffs to contend that the second suit is maintainable.

24. The Hon'ble Supreme Court in *The Correspondence's* case (referred herein supra) has held that while considering an Application under Order VII Rule 11 CPC, the Court need not accept patently untenable claims or shut its eyes to settled principles of law and put the parties to trial, even in cases which are barred and the cause of action is fictitious. Referring to the earlier decision of the Hon'ble Supreme Court *T.Arivandandam Vs. T.V.Satyapal*, reported in (1977) 4 SCC 467, the Hon'ble Supreme Court held that if the plaint is manifestly vexatious and meritless, the Courts should exercise power under Order VII Rule 11 CPC and not waste judicial time on matters that are legally barred and frivolous. In *HPCL Bio-Fuels Limited* case's (referred herein supra), the Hon'ble Supreme Court held that when liberty is granted by the Court, stating that remedy "as may be available" or "in accordance with law", it cannot be construed as giving liberty to file a proceeding that is not



available or that is not in accordance with law.

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25. In view of the said ratio laid down by the Hon'ble Supreme Court, the liberty granted by the Hon'ble Supreme Court is subject to the plaintiffs establishing that they have a right to sue and that the right is exercised in accordance with law.

26. I have already found that the findings in the earlier round of litigation that the revision petitioners alone are entitled to administer and manage the first petitioner Union and that the respondents/plaintiffs are not even members of the first petitioner Union has become final and it is conclusive and binding as against the respondents 1 to 5. There is nothing the in the plaint to even suggest that subsequent to the finality attained in the earlier round of litigation, the plaintiffs have become members of the first petitioner Union. Therefore the entire allegations that are levelled against the revision petitioner herein is nothing but re-agitation of what has been raised unsuccessfully in the earlier round of litigation. Moreover, the Hon'ble Supreme Court has also clarified that it is open to the petitioners to canvass the maintainability of the suit and rightly the petitioners have taken out an application to reject the plaint.



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The Trial Court, unfortunately, has been carried away by the liberty granted by the Hon'ble Supreme Court permitting the respondents/plaintiffs to challenge the 2019 election, has proceeded to hold that the plaint discloses a cause of action and the matter is one for trial and not a case where the plaint can be rejected.

27. For all the above reasons, having found that the plaintiffs/respondents are not entitled to challenge the elections of the first petitioner Union, being non members of the first petitioner Union, they have no locus to maintain the suit, the cause of action is clearly fictitious and not real or germane.

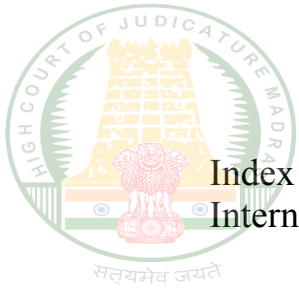
28. In view of the above, I am inclined to set aside the order of the Trial Court and accordingly, the order of the Trial Court in I.A. No. 8 of 2023 is set aside and the plaint in O.S. No.1204 of 2020, stands rejected.

29. In fine, this Civil Revision Petition is allowed. Consequently, connected Miscellaneous Petition is also closed. No costs.

22.08.2025

rkp

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Index : Yes
Internet : Yes

CRP. No.262 of 2025



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To:

1. The II Additional District Munsif,
Coimbatore.
2. The Additional Registrar of Trade Union
cum The Joint Commissioner of Labour,
Dr.Balasundaram Road,
Coimbatore 641 018.



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CRP. No.262 of 2025



P.B.BALAJI, J.,

rkp

Pre-delivery order in
CRP. No.262 of 2025
and CMP. No.1659 of 2025

22.08.2025