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CRP No.2420 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :23.06.2025

CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI

C.R.P.No.2420 of 2025

Lieutenant Colonel Sandeep Dewan (Retd)

.... Petitioner

vs

M/s Ootacamund Club
Represented by its President,
Having registered Office at:
No.179, Club Road, Ootacamund,
The Nilgiris

... Respondent

Revision filed under Article 227 of the Constitution of India to set aside the order dated 01.03.2025 passed in I.A.No.14 of 2024 in O.S.No.65 of 2022 on the file of Hon'ble District Judge, Udthagamandalam at The Nilgiris.

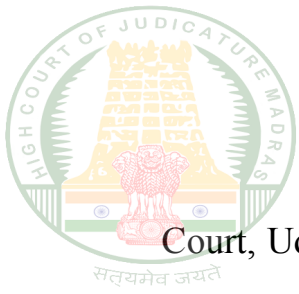
For Petitioner :Lieutenant Colonel Sandeep Dewan
Petitioner in person

For Respondent : Mr.Suhrith Parthasarathy

ORDER

Heard the petitioner-in-person and the learned counsel for the respondent.

2. The petitioner-in-person challenges the order of the trial Court, District



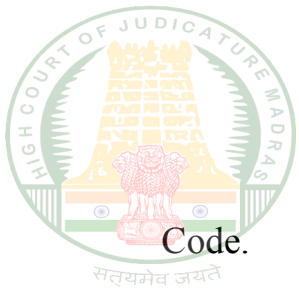
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Court, Udhagamandalam in I.A.No.14 of 2024 which has been taken out by the

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petitioner-in-person/plaintiff, seeking a direction to the respondent/defendant to produce documents relating to the registration of the respondent Club as a Section 8 Company in accordance with the conditions laid down in Section 8 of the Companies Act, 2013.

3. The petitioner-in-person states that at the time of joining the Club, the petitioner-in-person was not aware of the fact that the respondent Club was not registered under Section 8 of the Companies Act, 2013. However, later, he came to know that the company has not been registered under Section 8 of the Companies Act, 2013 and hence, in order to establish that his suspension/expulsion at the EGM was illegal, the petitioner-in-person has taken out an application seeking a direction to the respondent to produce the documents pertaining to the registration of the defendant Company as Section 8 of the Companies Act, 2013. He would further state that he has also filed his reply statement, incorporating various averments pointing out to the fact that the respondent Club is not registered under Section 8 of the Companies Act, 2013. He would therefore state that in order to establish the case set out in the plaint and the reply statement, the plaintiff would have to be necessarily given an opportunity to invoke the provisions of Order X1 Rule 5 of Civil Procedure



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Code.

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4. Per contra, learned counsel for the respondent, Mr.Suhrith Parthasarathy would state that the petitioner has raised the very same objection in parallel proceedings before the NCLT, which infact went upto Hon'ble Supreme Court and though this issue was not raised before NCLT, however, was taken before Hon'ble Supreme Court and a specific ground that the respondent was not registered under Section 8 of the Companies Act, 2013 was raised by the petitioner-in-person/plaintiff. However, the Civil Petition came to be dismissed. He would further contend that even thereafter, the petitioner-in-person has once again approached NCLT with a fresh application. Learned counsel would therefore submit that there is no infirmity in the order passed by the trial Court.

5. In reply, the petitioner-in-person would state that it is not after the dismissal of the Civil Appeal before the Apex Court, a fresh application was filed and he states that parallel proceedings were initiated before the trial Court as well as NCLT and the respondent, not being a Company, registered under Section 8 of the Companies Act, 2013, was not argued or contested before the Apex Court and therefore, it did not form part of the Hon'ble Supreme Court's



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order.

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6. I have considered the submissions advanced by the learned counsel on either side and have perused the order of the trial court, dismissing I.A.No.14 of 2024.

7. The trial Court has stated that the question as to whether the respondent being registered under Section 8 of the Companies Act, 2013 or not would not be necessary to decide the issues that arises for consideration before the Court, which pertains only suspension/expulsion of the petitioner-in-person/plaintiff. The trial Court has further held that the plaintiff himself has admitted in the plaint that the defendant Club is registered under Section 8 of the Companies Act, 2013.

8. When there is a categoric assertion in the plaint that the respondent/defendant is a Club registered under Section 8 of the Companies Act, 2013, I see no reason as to why the petitioner-in-person should be given an opportunity to take out an application under Order XI Rules 5 and 12, read with Section 151 of Civil Procedure Code, to direct the respondent/defendant to furnish documents pertaining to registration of the respondent/defendant Club



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as a Section 8 Company, in accordance with the conditions laid down in Section 8 of the Companies Act, 2013.

9. Further, the only question that arises for consideration in the suit is the validity of the suspension/expulsion of the petitioner-in-person/plaintiff. It is the plaintiff, who has approached this Court, seeking declaratory relief and he has chosen to array the defendant in a particular manner, supported by an averment in the plaint that the defendant Club is registered under Section 8 of the Companies Act, 2013. Therefore, it is unnecessary for the Court to entertain the application filed under Order XI Rules 5 and 12, read with Section 151 of Civil Procedure Code.

10. Therefore, I do not find any infirmity in the order passed by the trial Court.

11. In the result, the Civil Revision Petition is dismissed. No costs.

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Index: Yes/No
Website:yes/no
Speaking Order/Non-speaking Order
sr
To

The District Court, Udhagamandalam, The Nilgiris

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P.B.BALAJI.,J.

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