



OSA.No.119 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2025

CORAM

THE HONOURABLE Dr.JUSTICE ANITA SUMANTH

and

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

Original Side Appeal No.119 of 2025
and CMP No.7354 of 2025

K.Ranjitha Rao

... Appellant

-Versus-

1. Sri K.Vasudeva Rao
2. Smt.K.V.Geetha Rao
3. Sri K.Ramakrishna Rao
4. Sri.K.Pranesh Rao
5. Sri.K.Lakshminarayana Rao
6. Smt.Usha Rao
7. Kumari K.Suchitra Rao
8. Kumari K.Nandini Rao
9. Sri.K.Murali Rao
- 10.Smt.Rajalakshmi Rao
- 11.Sri Achuta Rao
- 12.Smt.Saritha Rao
- 13.Smt.Rathi Rao
- 14.Sri.K.Rajesh Rao
- 15.Smt.Deepika Rao
- 16.M/s.New Wooklands Hotel Private Limited,
No.72, Radhakrishnan Salai,
Chennai-600 004.
- 17.M/s.Woodlands Hotel Private Limited,
No.5, Rajaram Mohan Roy Road,
Bengaluru-560 025.

... Respondents



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Prayer:- Original Side Appeal filed under Order XXXVI Rule 9 of the Original Side Rules read with Clause 15 of the Letters Patent Act, praying to set aside the order dated 10.11.2023 made in A.No.2320 of 2023 in C.S.No.108 of 2011 on the file of the Original Side, Madras High Court and consequently STRIKE OFF the Plaint filed by the Plaintiffs in C.S.No.108 of 2011 from the file of the Hon'ble Madras High Court for abuse of process of Court.

For Appellant : Mr.Abhinav Parthasarathy

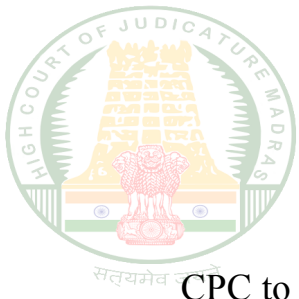
J U D G M E N T

(Judgment of the Court was delivered by C.KUMARAPPAN, J.)

This OSA arises against the fair and final order dated 10.11.2023 made in A.No.2320 of 2023 filed by the 14th defendant against the plaintiffs and other defendants in C.S.No.108 of 2011.

2. For the sake of convenience, the parties will be referred to according to their litigative status before the learned Single Judge.

3. The brief facts which give rise to the instant OSA is that, the petitioner has filed an application under Order VI Rule 16 and Section 151 of



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CPC to strike off the plaint in C.S.No.108 of 2011 from the file of this Court for abuse of process of law. The grounds urged by the petitioner is that in the plaint, in spite of knowing that the petitioner is the proper and necessary party, has omitted to be impleaded and that in the plaint, the plaintiff did not mention about the share of the petitioner's father and the share holding of the petitioner. It was also contended that the plaintiffs failed to bring to the notice of the Court about the order passed in the Company Law Board in CP.No.1879 of 2011, which was filed under Section 11(4) of the Companies Act, against the fraud committed by the first respondent in removing the petitioner's as well as her mother's name from the Register of members. It is the further contention that the plaintiffs failed to refer the Lok Adalat award in OS.No.196 of 2010. In short, it is the contention of the petitioner that the plaintiff is attempting to play fraud upon the Court by suppressing material facts, which is nothing but, an abuse of process of Court. It is in this background, he sought for a prayer to strike off the plaint.

4. The said application was considered by the learned Single Judge and dismissed the application on the finding that on the objection of one of the defendants, the entire plaint cannot be strike off in toto, when the *lis*



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against the other defendants is yet to be adjudicated. It was further observed that there was no suppression of fact in respect of Company Law Board order, as the plaint was filed prior to disposal of the said petition. Aggrieved with the said order, the petitioner preferred the instant OSA.

5. The learned counsel for the appellant by reiterating his above contention, would contend that the conduct of the plaintiff is nothing, but an act of fraud, which would squarely come within the ambit of Order VI Rule 16 of CPC. In support of his contention, the learned counsel relied upon the following judgments:-

- 1. *S.P.Chengalvaraya Naidu (dead) by LRS Vs. Jagannath (Dead) by LR's and others* reported in (1994) 1 SCC 1;**
- 2. *Ram Chandra Singh Vs. Savitri Devi and Others* reported in (2003) 8 SCC 319;**
- 3. *Bhaurao Dagdu Paralkar Vs. State of Maharashtra and others* reported in (2005) 7 SCC 605.**

6. We have given our anxious consideration to the above submissions.

7. The short points to be considered is, whether the petitioner can seek strike off of the entire plaint, under the guise of seeking to strike off



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pleadings under Order VI Rule 16 of CPC. According to Order VI Rule 16 of CPC, it deals about the strike off pleading on the 3 grounds enumerated under the statute. For ready reference, we deem it appropriate to extract Order VI Rule 16 of CPC:-

“16. Striking out pleadings.- The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading-

(a) which may be unnecessary, scandalous, frivolous or vexatious, or

(b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or

(c) which is otherwise an abuse of the process of the Court.”

8. No doubt the fraudulent conduct would very well come within the contours of abuse of process of Court. But, the issue arises before this Court is, whether fraud manifest apparent on the face of the pleadings, or to establish such fraud, any further evidence is required? The learned counsel relied upon the rulings to explain the fraudulent conduct by referring ***Bhaurao Dagdu Paralkar's*** case [cited supra]. We absolutely do not have any grievance over the ratio of the above judgment, as the fraud and collusion vitiate even the most solemn proceedings. As we all know the



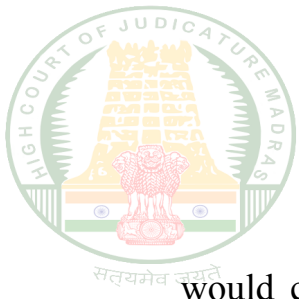
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fraud and justice never dwell together.

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9. But the issue is, whether these rulings are applicable to the present facts of the case? As rightly observed by the learned Single Judge, under the guise of striking off plaint pleading, the petitioner is attempting to strike off the entire plaint, which is a remedy provided under Order VII Rule 11 CPC qua rejection of plaint. Under Order VII Rule 11 CPC, for rejecting a plaint, it is mandatory on the part of the petitioner to establish, on reading of the plaint as if the plaint averments are true, and when the plaint averment does not disclose the cause of action, or when the relief is under valued or insufficiently stamped or when the suit is barred by any law, then only a plaint can be rejected under Order VII Rule 11 CPC. This is not the case before us.

10. No doubt, as held in the oft-quoted judgment in ***T.Arivandandam Vs. T.V.Satyapal and another*** reported in (1997) 4 SCC 467, on meaningful reading of a plaint if it discloses a meritless suit without clear right to sue, then the plaint can be rejected. The learned counsel also relied upon the judgment of the learned Single Judge in ***Ranipet Municipality rep. by its comer and another Vs. M.Shamsheerkhan*** reported in (1998) 1 CTC 66 and



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would contend that when there is fraud or collusion in Court proceedings between the parties, then the plaint can be strike off from the record. At this juncture, we must also keep in mind that the striking off the plaint is an extraordinary relief, and the same cannot be dealt very lightly. Whenever any fraud and collusion is pleaded, such fraud and collusion should covertly and overtly manifest on the reading of the plaint pleadings.

11. At this juncture, it is appropriate to refer the judgment of the Hon'ble Supreme Court in *Sejal Glass Limited Vs. Navilan Merchants Private Limited* reported in (2018) 11 SCC 718, which clearly clarifies that under Order VI Rule 16 CPC, the entire plaint cannot be rejected. It is not the case of the petitioner that the pleading as against her is to be strike out. On the other hand, she wants the entire plaint to be strike off from the record, which is not conceived under Order VI Rule 16 of CPC. Further, when the petitioner cannot seek the relief of rejecting the plaint directly, he cannot be permitted to achieve such relief indirectly under this application. Besides, the ground urged by the petitioner could only be established during trial. Therefore, we do not find any infirmity in the order of the learned Single Judge.



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12. In the result, the OSA stands dismissed by confirming the order of the learned Single Judge. There shall be no order as to costs. Consequently, connected CMP is also closed.

(Dr.ANITA SUMANTH, J.) (C.KUMARAPPAN, J.)
27.03.2025

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Index : Yes

Neutral Citation : Yes

Speaking order

To
The Section Officer,
Original Side,
High Court of Madras.



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