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A.No.5187 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
17.02.2025

PRONOUNCED ON
21.03.2025

CORAM

THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

A.No.5187 of 2024

in

C.S.No.87 of 2024

1.Mr.C.Sankaraligam

2.Mr.T.A.Velmurugan

3.Mr.K.Senthil Chinnadurai

Applicant(s)

Vs

Chennaivazh Thiruthangal Hindu Nadar

Uravinmurai Dharma Fund

Regn.No.114/1960

Rep., by its Secretary Mr.D.Subbiah

having office at

No.113, PAN Rajarathinam Salai,

Old Washermanpet, Chennai – 600 021.

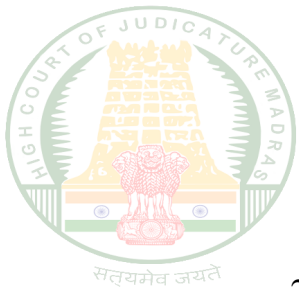
Respondent(s)

For Applicant(s): Mr.T.P.Prabakaran

For Respondent(s): Mr.S.Thanga Sivan

ORDER

This application had been filed to reject the plaint in C.S.No.87 of 2024 pending on the file of this Court.



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2. Heard Mr.T.P.Prabakaran, learned Counsel for the Applicants and Mr.S.Thanka Sivan, learned Counsel for the Respondents.

3. Mr.T.P.Prabakaran, the learned Counsel appearing for the applicants/ defendants would submit that the suit itself had been filed without there being any cause of action to institute the same. He would submit that even according to the plaintiff the alleged defamatory statements have been communicated through the WhatsApp. He would submit that the WhatsApp group had been initiated after the permission from the plaintiff by including the members of the plaintiff's society only as its members. He would further submit that the statements made are reflection of true facts on record in the first plaintiff/ society and the school run by it. There are no false averments that have been made. Such statements are made only to bring to the knowledge of the members, various activities which are detrimental to the plaintiff. Therefore they cannot be held to be per se defamatory for initiation of the suit for damages. He would further submit that 2 and 3 applicants are not necessary parties to the suit, as even admittedly in the plaint, it has been only pleaded that it was the first applicant/ first defendant who had made such statements. Therefore the suit



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is also hit by misjoinder of parties. He would further submit that the applicants membership had also been suspended and in reply to the charges made against them, they had specifically disowned the statements upon which the present suit had been filed, that too without concluding the same. The present suit is a premature suit and therefore, the suit is liable to be rejected and hence, he prays this Court to reject the plaint. He had also relied upon the judgement of this Hon'ble Court in the case of ***K.S.Sundaram Vs Viswanathan and another*** reported in ***2012 MHC 3080*** and Delhi High Court in the case of ***Ashutosh Dubey Vs Netflix, Inc & others*** reported in ***2020 DHC 360*** to support of his contentions.

4. Countering his arguments Mr. S.Thanka Sivan, the learned counsel appearing on behalf of the respondent/ plaintiff would submit that the respondent/ plaintiff is also running a school with about 6000 students on its roll. He would firstly deny the allegation that there has been a permission granted by the respondent/ plaintiff to start a Whatsapp group. Relying upon the judgment of the Hon'ble Apex Court in the case of ***State of West Bengal Vs Union of India*** reported in ***2024 SCC Online 1684*** and ***2018 (6) SCC 422***, he would contend that while rejecting the plaint, this court has to only



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look into the plaint and not the averments made in the written statement or in the applications to reject the plaint.

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5. He would submit that the suit had been instituted on the averments sustaining the defamatory statements made by the applicants. Therefore, he would submit that the present application is liable to be dismissed as the same had been filed only to protract the proceedings. He would further submit that cause of action had been disclosed in the plaint and all the allegations on which the present application has been filed could only be decided by the court at the end of the trial during the final adjudication. He would also refute the contention raised by the learned counsel for the applicant that the messages were only circulated in the members group. He would submit that there have been various enquiries by the parents of the students and the third parties who are not connected with the plaintiffs activities in respect of the defamatory statements made by the applicants.

6. That apart he would submit even if the group only contains the members of the plaintiff cannot absolve the applicants from being proceeded with on the defamatory statements made by them. He would further contend that one of the defamatory statement had been specifically made by the



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second applicant/ second defendant and similarly, the third applicant/ third defendant had also supported the said statement. Hence, there is no question of misjoinder of parties in the present suit and even if the same is to be taken as alleged the same could only be decided by framing an appropriate issue in respect of the same. Therefore, he prays this Court to dismiss the application.

7. I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials available on record.

8. The present suit had been initiated against the defendants claiming damages for defamatory statements made by them. It is the case of the applicants/defendants that the said statement is not per se defamatory. Such contention cannot be decided in the stage of an application that too in an application to reject the plaint. Such issues can only be decided at the time of the trial. Hence on that ground the plaint cannot be rejected, as being without any cause of action.



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9. Further contention is that the said statement have been circulated only within the members of the plaintiff and therefore, they may not be defamatory. But however it is the case of the plaintiff in the plaint that such defamatory information defaming the office bearers of the institution had also been circulated outside the community and the parents of the students studying in the school had made enquires with regard to the defamatory statements with the office bearers of the plaintiff, thereby the reputation is being affected. These allegations and counter allegations in view of this court can only be decided after the evidence are recorded in the suit.

10. As rightly pointed out by the learned counsel appearing for the respondent/ plaintiff the plaint cannot be rejected on the ground of misjoinder of parties and the same could also be framed as an issue and decided in the final adjudication of the suit.

11. The Division Bench of this Court dealt with an Intra Court Appeal against a Judgment and Decree made in the Suit after full Trial. Similarly, the Judgment of the Delhi High Court has been made in an Interlocutory Application rejecting a claim for injunction. Those judgments relied upon by the applicants cannot come to the aid of applicants to seek rejection of the



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plaint under Order VII Rule 11 of CPC.

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12. For the aforesaid reasons, I do not find any merits in the application and accordingly the application stands dismissed.

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Index: Yes/No

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K.KUMARESH BABU., J

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Pre-Delivery Order in
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in
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