



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-04-2025

WEB COPY

CORAM

THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

SA No. 329 of 2025

V.R.S.Sampath

Appellant

Vs

1. Thiyagaraja Nagar Social Club

Rep. by its Secretary P.S. Ashok @

Sinora Ashok

Having its registered office at No.1,

Nageswaran Road, T.Nagar,

Chennai - 017.

2. P.S.Ashok @ Sinora Ashok,

Hon'ble Secretary of Thyagarayanagar Social

Club, No.1, Nageswaran Road,

T.Nagar, Chennai-600 017.

Respondent(s)

PRAYER :- Second Appeal filed under Sec.100 of Civil Procedure Code, praying to set aside the judgment and decree passed by the XVI Additional City Civil Court, Chennai in AS No.20 of 2023 dated 19.08.2024 confirming the Judgment and decree passed in OS No. 5255 of 2011 on the file of the XIV Asst. City Civil Court, Chennai dated 02.09.2023.



WEB COPY

SA No. 329 of 2025



For Appellant:

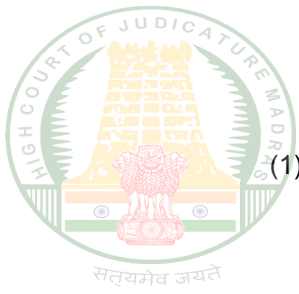
Mr.A.Thiagarajan
Senior Advocate for
Mr.S.Rameshkumar

JUDGEMENT

The appellant herein, who is the plaintiff filed the suit in O.S.No. 5255 of 2011 on the file of XIV Asst. City Civil Court, Chennai seeking for the relief of declaration and mandatory injunction against the defendants 1 and 2. On hearing both sides, the trial judge dismissed the suit. Against which, he preferred an appeal in A.S.No.20 of 2024 on the file of XVI Addl. City Civil Court, Chennai, wherein the first appellate judge on analysing both oral and documentary evidence, dismissed the appeal by confirming the findings of trial judge. Challenging the concurrent findings of the courts below, the plaintiff preferred this Second Appeal.

2. For the sake of convenience, parties are denoted as per the ranking in the suit.

3. The learned senior counsel for appellant prayed to set aside the findings of the courts below by raising the following grounds :-



WEB COPY

- (1) The courts below failed to consider the facts that the appellant has proved the case with material evidence by orally and documentary as per Sec.101 and 102 of Indian Evidence Act. Therefore, the courts below is not at all justified in dismissing the suit, when the respondent has not rebutted the same.
- (2) The appellant submits that the courts below failed to consider the fact that the respondent/defendant had neither filed any documents nor examined any person to disprove the case of the plaintiff and also the exhibits filed and marked by the appellant as Ex. A7 to Ex.A10. Hence, the burden of proof cast on the defendant was not discharged. Therefore, the plaintiff proved the case and hence the judgement and decree is liable to be set aside and the suit is liable to be decreed.
- (3) The appellant submits that when the respondent/defendant has not denied the exhibits filed and marked by the appellant that the legal consequences is that the Ex.A10 is proved. Therefore, the finding that there is no proof that the plaintiff filed the documents is an error apparent on the face of record.
- (4) The appellant submits that the learned judge has wrongly recorded a finding that the appellant has not disputed the suspension/removal from the membership of the 1st respondent Club is contrary to the letter dated 31.07.2009 which is marked as Ex.A10 where the appellant has agitated for the removal of



name from the membership rolls. Therefore, the order is liable to be set aside.

WEB COPY

(5) The appellant submits that the courts below did not address the issue raised by the appellant regarding to the Rule 48 of bye-law of the club, where the complaints and suggestions of a member has to be addressed by the respondents when it is given in writing. Therefore, the judgment and decree is liable to be set aside.

(6) The appellant submits that the courts below committed a serious error of law in recording the findings based on mere written statement without any evidence adduced by the respondent to rebut the evidence marked by the appellant. The appellant submits that when the respondent and all its authorised representative neither entered into witness box nor given any evidence against the appellant nor proved the disproved the contents of exhibits. The courts below is not justified in recording the finding against the appellant without recording any finding on the issue.

(7) The appellant submits that court below failed to consider the facts that the 1st respondent club is represented by its secretary, who is an appropriate authority to be sued or to sue and therefore, the appellant had letter/communication only made through by its secretary. Therefore, the courts below made a

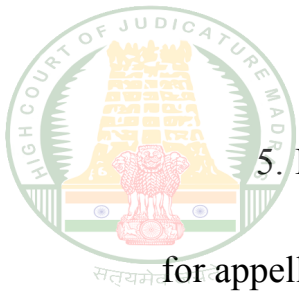


serious error of law in recording as if the appellant has not sent a letter to the committee.

WEB COPY

4. On submitting the aforesaid grounds, the learned senior counsel for appellant framed the following substantial question of law for consideration of this Second Appeal :-

- (a) Whether on the facts and in the circumstances of the case, the courts below were right in holding that the burden of proof cast on the appellant as per the Sec.101 and 102 of Indian Evidence Act is not discharged is correct in law?
- (b) Whether on the facts and in the circumstances of the case, the court below were right in holding that the respondent discharged the burden of proof is correct in law?
- (c) Whether on the facts and in the circumstances of the case, the court below is right in recording that there was no real triable issue or symbolic cause of action existed in the court of law?
- (d) Whether on the facts and in the circumstances of the case, the defendant failed to get into the box and refuse to give oral evidence to rebut the documentary and oral evidence filed by the appellant can be said to have discharged the burden of proof is correct in law?



5. Heard and considered the submissions made by learned senior counsel

for appellant and perused the materials available on record.

WEB COPY

6. On perusal of records, it reveals that it is an undisputed fact that he was a member of 1st defendant Club. As the plaintiff has requested for cancellation of minimum usage charges for members of the club as well as the management of the Club was not maintained the club with dignity and quality and also not acted in accordance with the bye-laws, he requested to furnish the details of bills and according to him, the 1st defendant failed to maintain the club properly. But, the submission of 1st defendant is that though the plaintiff is a member of the club, he failed to pay minimum subscription charges. Therefore, he was called upon to pay the pending arrears, but he failed to pay the same. Hence, his name was struck off and the same was also duly intimated to the plaintiff. If at all, he wanted to restore himself, Rule 16 of the bye-law prescribes as follows :-

“Reinstatement of defaulters :-

A) Any defaulter who has been removed from the rolls of the Club may, upon his application be reinstated as a Member by the Managing Committee at its discretion, provided that such defaulter pays along with his application all arrears due by him on the date of



WEB COPY

his removal together with a fee of Rs.1000/- and the subscription for the month during which he applies for admission Rs.2000/- should be paid as caution deposit by the members, whose name have been struck off the rolls for default in payment of bar and canteen bills”

Furthermore, Rule 17 of bye-law prescribes as follows :-

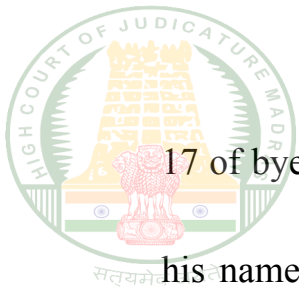
“Readmission :-

i) Any member who has been thrown out as defaulter may be readmitted with an entrance fee of Rs.1000/- by the Managing Committee at its discretion upon his application accompanied by his subscription for the month during which he applies within a period of 12 months from the date of default, failing which he is not eligible for readmission.”

But, the plaintiff instead of taking any steps to follow the procedures contemplated under Rule 16 and 17 of bye-law, he filed the present suit. Therefore, the trial court dismissed the suit and the same was confirmed by the first appellate court as it needs no interference.

7. Heard. Perused.

8. Admittedly, the plaintiff is a member of 1st respondent Club and as a member, he is bound to follow the procedures as prescribed under Rule 16 and



17 of bye-law as discussed above. Due to non-payment of subscription charges,

his name was already struck off much earlier prior to suit, that apart, he was

WEB COPY

called upon to pay arrears through notice by the 1st respondent, but he is not inclined, on the other hand, he raised allegations against 1st defendant by filing this vexatious suit. Finding rendered by court below to that effect is well-reasoned one. So, the plaintiff has no locus standi to interfere with the affairs of the club therefor. Hence, I do not find any merit in this Second Appeal nor there is no such question of law involved for consideration. Accordingly, this Second Appeal is dismissed as no merit. No costs.

24-04-2025

rpp

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. XVI Additional Judge, City Civil Court, Chennai
2. XIV Asst. Judge, City Civil Court, Chennai.
3. Section Officer, VR Section, Madras High Court.



WEB COPY

SA No. 329 of 2025



T.V.THAMILSELVI J.

rpp

SA No. 329 of 2025

24-04-2025