Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE GK.MUTHUKUMAAR

OSA No. 251 of 2022 and CMP.No.16159 of 2022

CNR: {HCMA011382662022}

1. N.Murali
2. Dr.Meenakshi (Sumathi) Krishnan
3. V.Srikanth
4. V.Sriram
5. The Music Academy Madras
   Represented by its Secretary, 168, T.T.K.Road,
   Royapettah, Chennai 600 014.

..Appellant(s)

Vs

Thiruvarur Vaidyanathan

..Respondent(s)

Original Side Appeal filed under Order XXXVI Rule 1 of OS Rules read with Clause 15 of Letters Patent to set aside the order dated 01.08.2022 passed in A.No.402 of 2022 in CS No.78 of 2020

For Appellant(s): Mr.T.Mohan, Senior Counsel
for Ms.Nivedita S.Menon

For Respondent(s): Ms.Dakshayini Venkatesh

JUDGMENT

(Judgment of the Court was delivered by N.Sathish Kumar J.)

Challenge has been made to the order of the learned Single Judge allowing the application filed for amendment of prayer in the suit, the present appeal has been filed.

2. Originally the suit has been filed for damages on the ground that the

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defendants published defamatory statements against the plaintiff. The cause of action alleged for the suit is on 21.10.2018, whereby, the alleged statements said to have been circulated by way of letter. When the suit was pending, an application was taken out to amend the plaint for introducing certain paragraphs particularly 39, 50, cause of action and prayer in the plaint. In the nutshell, the plaintiff has sought for amendment of the prayer in the plaint as follows:-

> *" a. Declaring the contents of the Letter of the 5th Defendant dated 21.10.2018 and the consequential statements made by the 1st Defendant, at the behest of all the Defendants, in the interview to the Puthiya Thalaimural, Tamil Media TV Channel, in the interview to The Hindu and The Times of India, Newspapers and in the interview to Behind woods AIR Media Channel, as defamatory statements made against the Plaintiff;*
> *b. for Permanent Injunction restraining the Defendants 1 to 5 their men, agents, representatives from repeating the statements or statements of similar nature, declared as Defamatory by this Hon'ble Court;*
> *c. and for Permanent Mandatory Injunction directing the Defendants I to 5, their Men, agents, representatives to pass a resolution retracting the Letter dated 21.10.2018, issued to the Plaintiff, as being violative of principles of natural justice and consequentially, allow the Plaintiff to perform as a Mirudangam player in vocal and percussion musical concerts/entertainment events, that may be held at the 5th defendant premises, at the behest of the 5th defendant or other third party musicians or music groups, at all times including the Annual Carnatic Music Concert Festival held in December every year.*

3. The learned Single Judge by order dated 01.08.2022 allowed the amendment. Challenging the same, the present appeal has been filed.

4. The learned Senior Counsel for the appellants/defendants challenged the order of the learned Single Judge mainly on the ground that the entire amendments alters the character of the suit and further relief sought by the

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plaintiff is barred by limitation. Whereas, the learned counsel for the respondent/plaintiff submitted that the amendment does not alter the nature of the suit, necessary pleadings are already available in the plaint; the amendment sought is only with regard to the relief portion alone, hence, according to her, the amendment will not change the character of the suit and seeks for dismissal of the appeal.

5. Heard both sides and perused the materials placed on record.

6. In light of the above, now the points that arise for consideration in this appeal is whether the amendment sought by the plaintiff will change the character of the suit and the relief sought by way of amendment is barred by limitation?

7. On perusal of the entire pleadings, originally the suit has been filed claiming damages on the ground that the letter said to have been circulated by the defendants on 21.10.2018 is defamatory in nature and subsequent interview in this regard is also defamatory in nature. The cause of action alleged in the plaint clearly indicates that the alleged letter is said to have been circulated on 21.10.2018 in respect of which sufficient pleadings have already been made claiming damages. When the matter stood thus, an application has been taken out for amendment of the plaint in the year November 2022 for incorporating the paragraphs and sought for relief of declaration as referred above.

8. No doubt when any amendment which does not alter the nature of the suit normally the same will be permitted, at the same time, any relief which is

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already barred by law sought to be introduced cannot be permitted. Now, the plaintiff seeks to amend not only the plaint but also relief of declaration to declare the contents of the letter dated 21.10.2018 as defamatory in nature and also mandatory injunction directing the defendants to pass a resolution retracting the letter dated 21.10.2018. It is relevant to note that admittedly as per the plaint, cause of action arose as early as on 21.10.2018 when the alleged letter said to have been circulated on that day, therefore, any relief seeking declaration in respect of the said letter ought to have been filed within a period of 3 years from the date when the right to sue first accrues; whereas, the said relief is sought only in the year 2022 much beyond the period of limitation. Similarly, for seeking relief of mandatory injunction to pass a resolution retracting on the same letter, the same ought to have been filed within a period of three years, whereas, the amendment is sought only in the year 2022 much beyond the period of limitation. Furthermore, the plaintiff is not entitled to seek a declaration concerning the contents of the letters, as a statement of this nature does not form a valid legal right or legal character.

9. Considering all these aspects, we are of the view that the learned Single Judge ought not to have allowed the amendment application which sought to introduce reliefs which are already barred by limitation. At any event, the plaintiff has already sought for damages alleging that the letter containing defamatory statements against the plaintiff, and thereby he suffered damages.

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Therefore, this Court is of the view that the plaintiff can very well establish his case in the pleadings which are already available in the original plaint.

10. Accordingly, this original side appeal stands allowed. No costs. Consequently, connected miscellaneous petition stands closed.

(N.S.K.,J.) (G.K.M.,J.)
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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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