

(2017) 01 KL CK 0083
In the High Court Of Kerala
Case No : O.P. (C)No.143 of 2016

C.K. Jayasankar

APPELLANT

Vs

Chalakudy Town Nss Karayogam

RESPONDENT

Date of Decision : 20-01-2017

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 8, Order 23 Rule 1, Rule 10

Citation : (2017) 1 ILRKerala 973 : (2017) 1 KerLJ 751

Hon'ble Judges : K. Ramakrishnan, J.

Bench : Single Bench

Advocate : P.R. Reena, Advocate, for the Petitioner; Sri. N. Ratheesh, Smt. Suma Ratheesh, Sri. K.S. Hariharan Nair and Sri. S. Sreekumar (Sr.), Advocates, for the Respondent No. 1, 4, 9, 13, 19, 21 and 22; Sri. K.G. Balasubramanian, Advocate, for the Respondent No. 14 and 20; Sri. V.M. Krishnakumar, Advocate, for the Respondent No. 12; Sri. Aravind Ajith, Advocate, for the Respondent No. 7

Final Decision : Dismissed

Judgement

K. Ramakrishnan, J.—;This original petition has been filed by the petitioner challenging Ext.P7 order allowing IA Nos.4927/2015, 4928/2015 and 4930/2015 in O.S. No. 395/2007 of the District Court, Thrissur by the Additional District Judge under Article 227 of the Constitution of India.

2. It is alleged in the petition that the petitioner is one of the patron members of Chalakkudy N.S.S. Educational Cultural and Charitable Society having its registered office at C.K.M.N.S.S. Campus East Chalakkudy, who is shown as first respondent and it is a society registered under the Travancore Cochin Literary Scientific and Charitable Societies Act, 1955. The society is conducting among other things, a prestigious CBSE School at Chalakkudy in the name and style of C.K.M.N.S.S. Senior Secondary School having more than 2000 students and it is one of the best schools in Thrissur District. Apart from conducting the school, they are providing professional courses and also running a working women's hostel in Chalakkudy. The society is administered by a managing committee

which is known as Director Board as well. As per the registered byelaw, there are three types of members in the director board, namely 11 founder members and 8 patron members who are permanent members of the Director Board. There is a third category of members totalling four in number, who are being nominated by four N.S.S. Karayogams within Chalakkudy area known as Chalakkudy town N.S.S. Karayogam, West Chalakkudy N.S.S. Karayogam, Potta N.S.S. Karayogam and Chenathunadu N.S.S. Karayogam. The period of nominated directors is three years whereas the founder members and patrons are permanent members. As per the bylaw of the society, for curtailing any of the powers of the founder members, a unanimous decision of the director board is required. It is clear from the intention of the makers of the byelaw is that, the founder members form the most important and vital category of members in the director board. Originally there were only 11 founder members and 4 nominated members of the Karayogams in the director board. In 1986, the bylaw was amended and patron members were also included. As per the bylaw, the right of the patron members will be inherited by his wife or children nominated by the wife and children of the deceased patron members. There was no provision for inheriting the right to any other person apart from wife and children. There is no power vested in the patron member to nominate any other person while he was alive. Further there is no provision to inherit the right of the founder member on his death and there is no power to nominate any person as his successor by the founder member when he is alive as well. The nominated members have not contributed either physically or monetary for the formation of the society. They were included in the director board only to ensure adequate representation for the community of the founders of the society that is "Nair Community". There are anomalies in the byelaw of the society, patron members at present are not members of the general council of the society. So the petitioner who is a patron member along with six others who are either founder members or patron members filed Ext.P1 suit as O.P.395/2007 before the District Court, Thrissur for framing a scheme for proper administration and development of the first respondent society. The suit was filed under Order 1, Rule 8 of the Code of Civil Procedure in a representative capacity and the same was allowed by the court below and directed to effect paper publication as per order in IA No.3329/2007. As per Ext.P2 application as I.A.3545/2007 the president and secretary of the respective four Karayogams had sought themselves to be impleaded along with some other members of the Karayogam also in their personal capacity and petitioner numbers 15 to 22 in Ext.P2 have wanted to implead themselves as the president and secretary of the respective four Karayogams and the application was allowed and those persons were impleaded as respondents 20 and 27 in the original petition. Since the four Karayogams mentioned above are not registered entities and legal persons, their office bearers were impleaded in the original petition for protecting the interest of the said Karayogam. The nominees of the four Karayogams to the Director Board of the first respondent were also impleaded in the original petition itself. Some of the respondents filed counter statement opposing the petition for framing the scheme. According to them there was no necessity to frame a

scheme for the administration of the 5th respondent society.

3. When the case was taken up for trial, the counter petitioners who filed counter statement opposing the necessity to frame a scheme have withdrawn their contentions and they wanted the court to pass judgment on merit as it is a scheme suit and accordingly court below after considering the scope of the suit and contention of the parties passed Ext.P3 order dated 20.12.2014 and none filed any appeal to the same as well. So that has become final. The court below found that there is necessity to make necessary provisions in the byelaw by framing a scheme for better administration by providing the provision for nominating or power to inherit the right of the founder members in the director board and passed a preliminary order directing the parties to provide draft schemes for consideration. Accordingly three draft schemes were produced by different parties and the same was heard and it was posted for final hearing on that aspect. It was at that time that, respondents 1 to 4 filed the above applications to implead four Karayogams as parties to the proceedings, one of such application namely I.A.4927/2015 filed by R1 was produced as Ext.P4 and objection to the same is produced as Ext.P5. Though the petitioner filed objection to the same, the court below by Ext.P7 common order allowed the application, which is being challenged by the petitioner by filing this petition.

4. Respondents 1 to 4, 9 to 13, 19, 21 and 22 filed counter affidavit through 9th respondent contending as follows: The application is not maintainable. There is no illegality committed by the court below in passing Ext.P7 order. O.P.No.397/2007 was filed before the District Court, Thrissur for framing a scheme for proper administration, development and welfare of the 5th respondent society. It was registered at the instance and active participation of four N.S.S. Karayogams in and around Chalakkudy Municipal area, namely Chalakkudy Town N.S.S. Karayogam, Chenathunadu N.S.S. Karayogam, West Chalakkudy N.S.S. Karayogam and Potta N.S.S. Karayogam. In addition to the members of the above Karayogams, there were 11 other members who are known as founder members and out of the 11 members only 5 members are now surviving. Respondents 1 to 4 herein filed applications to implead them in the party array. The attempt of the petitioner is to protract the proceedings before the court below and enjoy the administration of the 5th respondent Society with ulterior motive and malafide intention. The allegation in para 2 of the petition is not fully correct and hence denied. It is incorrect to say that there are 8 patron members in the society. It is also not correct that the byelaw was amended in the year 1986. There was no stipulation in the byelaw regarding patron members which is evident from Ext.R9(a) copy of the byelaw produced. On 30.07.1981 certain amendments were made in the byelaw and thereafter no amendments were made in the year 1986 as alleged. This was strengthened by the reply obtained from the Registrar of the societies under the Right to Information Act evidenced by Ext.R9(b). The allegation that, the right of the patron members are inherited by the wife or children, nominated by the wife and children of the deceased patron member is not correct and hence denied. There are no patron

members as alleged. The allegation that there was no provision for right of founder members in the director board, to be inherited by his legal heirs as in the case of patron members is also not correct and hence denied. The byelaw makes it clear that, in the event of any vacancy caused either by resignation or by death or by removal of founder members, the same shall be filled up by election by general council from among the members of the respective Karayogam. The allegation that entire monetary and physical contributions for the establishment and running of the society and its administration were from the founder members and patron members and four N.S.S. Karayogams have not contributed anything either physically or monetary is absolutely false and hence denied. It is incorrect to state that the clause regarding the filling up of the vacancy after the death of founder member is applicable only to general council and not to director board. As regards the statement in para 5, the person sought to be impleaded were in the capacity of president and secretary of the respective Karayogams is not correct and hence denied. The Karayogams were not impleaded and the office bearers were impleaded in their individual capacity. After the tenure of the office bearers, they would go out and if the impleadment was in the official capacity, the office bearers will continue. Nobody is representing the interest of the Karayogam as the Karayogams were not impleaded in their official capacity. The allegation that four Karayogams were not registered entities and legal persons and their office bearers were impleaded in the original petition for protecting the interest of the Karayogam is not correct and hence denied. They have legal entity and they are affiliated to and obtained registration from the Nair Service Society, Perunna. It is true that the respondents withdrew their contentions and conceded to frame a scheme for better administration and they have never accepted the contentions made in the original petition. They only withdrew the contentions for the purpose of framing a new scheme for proper administration development and welfare of the 5th respondent society. Since the only issue to be considered at that stage was whether a framing of new scheme is necessary and this is obvious from the preliminary order Ext.P3 passed. The allegation that nomination to the vacancy in the director board regarding patron members is serious anomalies is also false and it is denied. There is no patron members and if at all, there is such patron members they have no right in the administration of the society. The allegation that the arguments regarding acceptance of the scheme has already been over is not correct. The arguments of the petitioners regarding the scheme are over and the respondents have not started their arguments. Whether there are patron members and what are the right of the patron members if any etc., are to be considered by the court while framing the scheme. In Ext.P9(a) byelaw itself the importance of the Karayogams have been specifically mentioned. The preliminary order was passed taking into consideration the relevance of framing a scheme for 5th respondent and any further question can be considered in the final decree proceedings. Application I.A.2689/2013 for impleading the four Karayogams was filed even before passing of preliminary order on 04.06.2013 evidenced by Ext.R9(c). But it was not considered before passing the preliminary order and it

was considered only recently. When it was found that there are some technical mistakes in the application, they withdrew the same and separate applications as I.A. Nos.4927/2015, 4928/2015, 4929/2015 and 4930/2015 were filed by the four Karayogams separately who are the present respondents 1 to 4 herein. The court below after considering all these aspects, rightly allowed the application. There is no illegality committed by the court below and the same need not be interfered with. They prayed for dismissal of the petition.

5. The 9th respondent filed I.A. No.286/2016 to inform the court that he has not joined respondents 1 to 4 who filed an affidavit stating that he is joined with them. So he wants to be deleted from their party array and wants to appear separately.

6. The petitioner filed reply affidavit denying the allegations in the counter affidavit filed by the respondents. He denied the allegation that this petition was filed only to protract the proceedings. The allegation in the counter affidavit that there is no patron members is not correct. There were 8 patron members and the introduction of patron members was through an amendment on the existing byelaw, which was accepted by 7th majority of the general council in the meeting held on 12.08.1988 and it was approved by Sri. T. Narayana Menon, who is the deponent in the counter affidavit evidenced by Ext.P8. R9(a) and R9(b) are only part of Ext.P8 and it cannot be accepted as a true and genuine one. The attempt of the respondent is only to mislead the court. Since the original petitions are having the trap of the original suit, Section 141 and Order 23, Rule 1 of the Code of Civil Procedure will apply. Since the earlier application was withdrawn without permission from the court, they are not entitled to file the second application which is hit by Order 23, Rule 1. So the court below ought not have allowed the applications on that ground also. Ext.P9 is the draft scheme that has been produced by the petitioners before the court below which is under consideration. A reading of which will go to show that there is no inconsistency in the existing byelaw and there is no provisions contrary to the existing byelaw have been incorporated in Ext.P9. So they reiterated the contentions raised by them in the original petition and prayed for quashing Ext.P7 impugned order passed by the court below.

7. Heard Sri. Renjith Thampan, senior counsel appearing for the original petitioner and Sri. S.Sreekumar, Senior counsel appearing for respondents 1 to 4, 9 to 11, 13, 19, 21 and 22 and Sri. K.G. Balasubramanian, counsel appearing for respondents 14 and 20 and Sri. Aravind Ajith, counsel appearing for 7th respondent and Sri. V.K. Krishnakumar, counsel appearing for the 12th respondent and others not represented.

8. Sri. Renjith Thampan, senior counsel appearing for the original petitioner argued that, since the four Karayogams herein sought to be impleaded as per the impugned order are not registered bodies and as such there is no legal entity for them to represent the Karayogam and as such they should not have been impleaded by the court below as only a real person, or legal person alone will be

deemed as person entitled to be impleaded in the proceedings. Further they are not entitled to deny the existence of the patron members which was incorporated by the amendment of 1988 and they want to set up new case which was not raised by them in the original petition. Further the office bearers of the four Karayogams were impleaded in a suit and some of them have come on record in their individual capacity while so there is no need for impleadment of Karayogam which has not been considered by the court below.

9. Further by virtue of Section 141 of the Code of Civil Procedure, all the procedure applicable to suits will be applicable to the original petitions as well. Once an earlier application filed by them was withdrawn without the consent of the court, the second application for the same purpose is not maintainable in view of the bar under Order 23, Rule 1 of the Code of Civil Procedure. He had also contended that they are not entitle to reopen the preliminary decree and they can only take contentions which is in consistent with the preliminary order and not otherwise. He had relied on the decisions reported in Subhash Market Association and Another v. Municipal Corporation of Delhi and Others (2005 KHC 5363), Ezhumattoor N.S.S. Karayogam v. L.Janaki Amma and Another (1955) 11 Laws (Ker) 15. and Salafi Trust, Mattancheri and others v. Nazeer.P and others (2013 KHC 196) and Anakkayam Puliyl Juma-Ath palli v. V.P. Abdulla and others (2012(2) KHC 283) in support of his case.

10. Sri. S. Sreekumar, senior counsel appearing for the respondents 1 to 4, 9 to 11, 13, 19, 21 and 22 argued that, they being the interested parties in the proceedings and even a reading of the bylaw will go to show that it was constituted for the purpose of the benefit of the 4 Karayogams and they are necessary and proper parties to the proceedings. Further since the suit itself was filed under Order I Rule 8 of the Code of Civil Procedure to sue or to be sued the members of the 5th respondent society herein, there is no necessity to get permission under Order I Rule 8 again for impleading the non legal entities or unregistered bodies when they want to come on record as the permission once granted will enure the benefit of the persons coming on record as well. Further in the preliminary order, only a necessity to frame scheme alone was considered and what is the nature of the scheme to be framed etc., is the mater to be considered in the final decree proceedings after getting the suggestions from all interested parties. So any interested party in the proceedings can come on record even in the final decree proceedings as well. So according to the senior counsel, there is no illegality committed by the court below in passing the impugned order.

11. Sri. K.G. Balasubramaniyan, the learned counsel appearing for respondents 14 and 20 supported the arguments submitted by senior counsel Sri.S.Sreekumar, whereas Sri. V.K. Krishnakumar, the learned counsel appearing for the 12th respondent supported Sri. Renjith Thamban, the learned counsel appearing for the petitioner. Heard Sri.Aravind Ajith, learned counsel appearing for the 7th respondent as well.

12. It is an admitted fact that the 5th respondent Society namely Chalakudy N.S.S. Educational, Cultural and Charitable Society, Chalakudy is a registered society governed by Ext.R9(a) byelaw amended from time to time. It is also not in dispute that the Society is intended to take care of the benefits of four Karayogams namely (1) Chalakkudy Town N.S.S. Karayogam (formerly East Chalakudy Karayogam, (2) West Chalakudy N.S.S. Karayogam (3) Chenathunadu N.S.S. Karayogam and (4) Potta N.S.S. Karayogam (formerly Potta Perambra N.S.S. Karayogam).

13. It is also not in dispute that there were 11 founder members and four members nominated from the above said four Karayogams from their general body. According to the petitioner there are 8 patron members who will also constitute the director board of the 5th respondent society along with the members mentioned above. There is some dispute regarding the fact as to whether there is any patron member or not, that is a matter to be considered by the court below while considering the question of framing the scheme. According to the petitioners, there is a provision in the bylaw regarding the filling up of vacancy on the death of patron members by persons nominated by the wife and children of that deceased patron member. But there was no such provision in the case of vacancy arises on account of the death of founder members and according to them, in order to remove this anomaly and give importance to the founder members by including the nominees to be nominated by the wife and children of the founder member to be included in the director board to frame a scheme for better administration of the 5th respondent society, Ext.P1 suit was filed as O.P.395/2007 before the District Court, Thrissur and by Ext.P3 order by the 3rd Additional District Judge, Thirissur, a preliminary order was passed for framing a scheme for the 5th respondent society herein.

14. It is also not in dispute that the above suit was filed in a representative capacity as some of the beneficiaries of the 5th respondent society are not registered bodies, not having legal entity seeking permission to sue them also in a representative capacity and the same was allowed and the publication was effected and on that basis respondents 5 to 27 were impleaded in the proceedings. It is true that respondents 20 to 27 who were impleaded in the lower court, though mentioned as president and secretary of the respective four Karayogams, but it is seen from the cause title that they were impleaded in their individual capacity though their official status was also mentioned. It is also not in dispute that, earlier an application has been filed by these Karayogams to get themselves impleaded in the original petition before passing of the preliminary decree as I.A.2689/2013, but no orders have been passed in that application. It is thereafter those four Karayogams filed independent applications as I.A.4927/2015, 4928/2015, 4929/2015 and 4930/2015 to get themselves impleaded in the final decree proceedings. The court below allowed those applications. This court is not going into the question as to whether amendment of the byelaw as stated in the original petition before the court below have been taken effect and whether further provision will have to be made in respect of the

same etc., as those matters to be considered by the court below while framing the scheme.

15. Order I Rule 8 of the Code of Civil Procedure deals with the provision and the procedure for filing a suit in a representative capacity, which reads as follows:

8. One person may sue or defend or behalf of all in same interest.-

(1)Where there are numerous persons having the same interest in one suit.-

(a) one or more of such persons may, with the permission of the Court, sue or be sued, or may defend such suit, on behalf of, or for the benefit of, all persons so interested.

(b) the Court may direct that one or more of such persons may sue or be sued, or may defend such suit, on behalf of, or for the benefit of, all persons so interested.

(2) The Court shall, in every case where a permission or direction is given under sub-rule (1), at the plaintiff's expense, give notice of the institution of the suit to all persons so interested, either by personal service, or, where, by reason of the number of persons or another cause, such service is not reasonably practicable, by public advertisement, as the Court in each case may direct.

(3) Any person on whose behalf, or for whose benefit, a suit is instituted, or defended under sub-rule (1), may apply to the Court to be made a party to such suit.

(4) No part of the claim in any such suit shall be abandoned under sub rule (1), and no such suit shall be withdrawn under sub-rule (3), of rule 1 of Order 23, and no agreement, compromise or satisfaction shall be recorded in any such suit under rule 3 of that Order, unless the Court has given, at the plaintiff's expense, notice to all persons so interested in the manner specified in sub-rule (2).

(5) Where any person suing or defending in any such suit does not proceed with due diligence in the suit or defence, the Court may substitute in his place any other person having the same interest in the suit.

(6) A decree passed in a suit under this rule shall be binding on all persons on whose behalf, or for whose benefit, the suit is instituted, or defended, as the case may be.

16. So the person who wants to sue or be sued or made to defend such suit in respect of a subject matter, in which numerous persons are having same interest can invoke Order I Rule 8 to seek permission for that purpose. Once a permission has been granted to the plaintiff to file the suit in a representative capacity, then any person who is interested or having same interest in the subject matter can come on record. It is not necessary that a non registered body or a club or an association who wants to be impleaded in such a suit it is incumbent upon those persons to apply again for seeking permission to defend such association under

Order I Rule 8 and it will only cause unnecessary complications and it will only increase the litigation expenses alone.

17. In the decision reported in *Salafi Trust, Mattancheri and others v. Nazeer.P and others* (2013 KHC 196), it has been held that, when one or more persons are sued or be sued where there are numerous persons having same interest, permission shall be obtained from the court for suing or being sued and that before granting permission or direction at the expenses of the plaintiff notice regarding the institution of the suit has to be issued to all persons so interested.

18. In the decision reported in *Commons Club v. P.M. Mathew* (1982 KHC 3), while considering the question as to whether a suit by a member of a club against the secretary on behalf of the club is maintainable, it has been held that, a permission to Order I Rule 8 is one which the court can grant and that the effect of an grant of such permission would be to cure the defect in the frame of the suit which would have otherwise existed having regard to the fact that the club is not a juristic person.

19. In the decision reported in *London Association for Protection of Trade v. Greenlands Ltd.*, (1916(2) AC 15), it has been observed that, an unincorporated members" club not being a partnership or legal entity cannot sue or be sued in the club name, but in the decision mentioned above, it has been observed that, this however does not mean what is termed as representation orders in the Rules of the Supreme Court as is obtained in the United Kingdom are not available in respect of actions relating to clubs. For "where all the members of the club have the same interest, proceedings may be started by or against one or more members in a representative capacity. In such an action against the club, the court may on the application of the plaintiff make a representation order adding other members as further representatives. Judgment may be given in such an action against all members of the club, but the leave of the court must be obtained for enforcement against members who were not nominal parties to the suit". After analysing several decisions on this subject, the Division Bench of this court in the above decision has approved the decision reported in *Narayanan Nambudiri's* case (1957 KLT 932), where it has been held that, even if a suit has been filed by an unregistered club or association through its secretary, who is not entitle to file the suit as unregistered society or club is not a legal person, that can be cured at any stage by seeking permission under Order I Rule 8 from the court and once such a permission is granted the defect can be cured in the form of the suit which would have otherwise existed having regard to the fact that the club is not a juristic person. The same view has been reiterated in the decision reported in *Ezhumattoor N.S.S. Karayogam v. L.Janaki Amma and Another* (Laws (Ker)-1955-11-15) and *Subhash Market Association and Another v. Municipal Corporation of Delhi* (2005 KHC 5363). So once a suit has been filed in a representative capacity to sue or be sued of a society which is not registered or consists of members of unregistered societies, then it is not necessary to seek permission of the court under Order I Rule 8 at each stage when ever such

association is intended to come on record as defendants/ respondents in such a representative suit.

20. It is an admitted fact that, the four Karayogams which were now impleaded in the proceedings are also beneficiaries of the 5th respondent society, for whose better administration a scheme is sought to be framed. It is also not in dispute that, nominees from these four Karayogams are also will form part of the director board of the 5th respondent society which administer the functions of the society. So under such circumstances, the four Karayogams cannot be said to be not having same interest in framing of the scheme for the 5th respondent society and so they are necessary parties to the proceedings.

21. It is true that by virtue of Section 141 of the Code of Civil Procedure, the procedure provided in this code in regard to the suit shall be followed, as far as it can be made applicable in all proceedings in any court of civil jurisdiction. So in such circumstances, according to the learned counsel for the petitioner, when an earlier application has been filed for the same purpose and it has been later withdrawn without the leave of the court, they cannot subsequently file an application in view of the bar under Order 23 Rule I of the Code of Civil Procedure. But it may be mentioned here that an application has been filed earlier, but that was not considered during the preliminary decree stage and it is thereafter when they found that there is some formal defect, they filed independent applications mentioned above for themselves to be impleaded in the final decree proceedings and after filing the application that the earlier petition was withdrawn, then it cannot be treated as a case where the earlier petition was allowed to be withdrawn or abandoned, without leave of the court and thereafter the present petitions have been filed. Bar under Order 23 Rule I will apply only in a case where after getting the earlier application dismissed as withdrawn, without permission a fresh application has been filed for the same purpose, but that will not apply in a case where after filing a fresh application curing the defect, if the earlier application was withdrawn, then they can proceed with the subsequent application filed and the bar under Order 23 Rule I will not apply in such cases.

22. As regards the question as to whether fresh parties are entitled to come on record in the final decree stage, has been considered by this court in *Anakkayam Puliyl Juma-Ath palli v. V.P. Abdulla and others* (2012(2) KHC 283), where it has been held that, if the question sought to be projected by way of such impleadment cannot be considered without reopening the preliminary decree, such impleadment cannot be allowed. Only those persons who are legal representatives of one of the parties to the suit can seek impleadment in the final decree proceedings. Further in the same decision, it has been held that none has an indefeasible right, even if he be a proper or necessary party who insists for his impleadment without having regard to the stage at which a suit or proceedings is pending before the court. It has only stated that, even if a party is to be impleaded in a final decree proceedings in a suit for partition, he can be

impleaded, but he cannot go behind the preliminary decree. So it is clear from this that even during the final decree proceedings, a party can be impleaded, though he was not a party to the preliminary decree, but he cannot go behind the preliminary decree and he is bound by the preliminary decree and he can only raise contentions in tune with the preliminary decree passed in the proceedings. So the apprehension of the counsel for the petitioner that, if they are impleaded at a later stage they are expected to raise contentions which is likely to re-open the preliminary decree has no substance as once they have been impleaded, they are only entitled to raise contentions in tune with the preliminary decree passed in respect of framing of the scheme and they cannot go beyond the preliminary decree passed.

23. So under such circumstances, the order passed by the court below impleading the four Karayogams as additional respondents by the impugned order in the proceedings is perfectly sustainable and no illegality has been committed by the court below in allowing the application and that does not call for any interference at the hands of this court invoking the supervisory jurisdiction under Article 227 of the Constitution of India. So the petition has no merit and the same is hereby dismissed.

24. In the result, the petition is dismissed.