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**(1997) 10 MAD CK 0104**  
**In the Madras High Court**

Swadharma Swarajya Sangha

APPELLANT

Vs

Indian Commerce and Industries Company (P) Ltd.

RESPONDENT

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**Date of Decision :** 21-10-1997

**Acts Referred:**

**Citation :** (1998) 1 LW 203 : (1998) 1 MLJ 724

**Hon'ble Judges :** Manmohan Singh Liberhan, C.J

**Bench :** Division Bench

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## **Judgement**

Manmohan Singh Liberhan, C.J.—The only contention raised in this appeal is that the Director was competent to file the suit as authorised by the Articles of Association. It would be expedient to reproduce the relevant portion of Article 104 of the Memorandum of Articles of Association:

without prejudice to the general powers conferred by the last preceding articles and the other powers conferred by these presents it is hereby expressly declared that the Directors shall have the following powers, that is to say, power.

(b) to institute, conduct, defend, compromise or abandon any legal proceedings by or against the Sangha or its officers, or otherwise concerning the affairs of the Sangha and also to compound and allow time for payment of or satisfaction of any debts due and of any claims or demands by or against the Sangha.

2. A reading of the above, article leads to an inference that it is the Directors who should jointly authorise to decide to institute a suit. Concedingly, the Directors have passed no resolution deciding to institute a suit binding the institution with the result of the suit. The suit having been filed without there being any resolution and as the Corporation can only file a suit if there is a resolution for the same, the suit was not filed by an authorised person under Order 29, Rule 1 of the Code of Civil Procedure. The suit as such is not maintainable.

3. Consequently, the Letters Patent Appeal is dismissed.