
(2011) 03 MAD CK 0243

In the Madras High Court

Case No : C.R.P. (PD) No"s. 2807 and 2808 of 2009 and M.P. No"s. 1 and 1 of 2009

The District Governor, Rotary International

APPELLANT

Vs

V.R. Balasubramanian and Mr. Edwin H. Fuca

RESPONDENT

Date of Decision : 04-03-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 12 Rule 6, Order 7 Rule 11

Citation : (2011) 03 MAD CK 0243

Hon'ble Judges : R.S. Ramanathan, J

Bench : Single Bench

Advocate : R. Krishnamoorthy for G.K.R. Pandiyan, for the Appellant; L. Chandrakumar, for R1, G. Prasanna, for R2 and K. Vijayakumar, for R3, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Ramanathan, J.—Civil Revision Petition No.2807 of 2009 is filed as against the order passed in I.A.No.14685 of 2008 in

O.S.No.4384 of 2008 which is filed under Order VII Rule 11 of the CPC to reject the plaint. Civil Revision Petition No.2808 of 2009 is filed

against the order refusing to render judgment on the basis of the alleged statement made by the defendants.

2. O.S.No.4384 of 2008 is filed by the first respondent for a declaration declaring the election held for the nomination of governor nominee for the

District 3230 for the year 2010-2011 as null and void, for a declaration declaring that the election for the nominating committee to nominate the

governor nominee for District 3230 for the year 2011-2012 as null and void and for injunction.

3. It is alleged in the plaint that as per the Manual of Procedure 2007, the

guideline stated therein are to be followed and the election held for governor nominee for the District 3230 for the year 2010-2011 and election for nominating committee to elect the Governor nominee for the year 2011-2012 is bad in law and illegal as the procedure contemplated under the Manual was not followed. The revision petitioner filed application under Order VII Rule 11 to reject the plaint taking various pleas about the locus standi of the petitioner and the internal mechanism provided to settle the dispute and the presence of arbitration clause in the Manual of Procedures and prayed for rejection of the plaint.

4. That application was dismissed by the court below holding that the issues are pertaining to the merits of the case and that cannot be adjudicated in the petition filed to reject the plaint and those disputes can be resolved only by a regular trial. Hence, the revision is filed against the said order.

5. The revision petitioner also filed revision petition No.2808 of 2009 against the order passed in I.A.No.1722 of 2009 filed under Order XII Rule

6 of the CPC stating that in the counter filed by the plaintiff in I.A.No.14685 of 2008 he has admitted that he is not questioning the election but

only the procedure adopted in its conduct and therefore, having admitted that he has not challenged the election, the suit has to be dismissed as in

the plaint, his prayer is to declare the election held for the nomination of governor nominee for the District 3230 for the year 2010-2011 as null and

void, for a declaration declaring that the election for the nominating committee to nominate the governor nominee for District 3230 for the year

2011-2012 as null and void. That petition was also dismissed.

6. Mr. R. Krishnamurthy, learned Senior Counsel for the petitioner submitted that the Honourable Supreme Court has held that in S.L.P.(Civil)

No.8587 of 2005 dated 2.5.2005 that in the matter of disputes relating to clubs, ordinarily civil courts do not interfere and the disputes should be

left to be adjudicated upon by the internal mechanism provided by the constitution of the club and in this case, as per the Manual of Rotary

International, internal mechanism is provided to resolve the disputes and therefore, the suit is liable to be rejected. He further submitted that as per

clause 24.010, the disputes can be resolved through mediation or arbitration and therefore, civil suit is not maintainable.

7. I am unable to agree with the learned Senior Counsel. In this revision viz.,

C.R.P.No.2807 of 2008, we are concerned only with the application filed under Order VII Rule 11 of the CPC for rejection of the plaint. The Honourable Supreme Court, in the judgment reported in Wipro Limited, Thiru Vi Ka Industrial Estate and Wipro Chandrika Limited Vs. Oushadha Chandrika Ayurvedic India (P) Limited, Oushadha Chandrika Research Centre and Narayana Stores, , has held that while deciding the application under Order VII Rule 11, the court has to decide only on the allegations made in the plaint and the averments in the plaint alone should be taken into consideration to decide the issue and the stand taken by the defendant in the written statement cannot be considered for rejecting the plaint. The learned Senior Counsel relied upon the written statement and also on the Manual of the Rotary Club International and submitted that the plaintiff has no locus standi and he cannot question the election.

8. As held by the Honourable Supreme Court, such a plea cannot be taken into consideration for rejecting the plaint. Further, Order VII Rule 11

of the CPC provides that when the plaint does not disclose a cause of action or the relief claimed is undervalued where the suit appears to be

barred by any law or where it is not filed in duplicate or where the plaintiff fails to comply with the provisions of Rule 9, the plaint can be rejected.

Therefore, as per the above provision, the court has to got power to reject the plaint only on those grounds.

9. Admittedly, the revision petitioner is not able to bring his case within any of the grounds stated therein. Hence, the argument of the learned

Senior Counsel that the suit is not maintainable as there is an internal mechanism provided in the Manual cannot be taken into consideration at this

stage for rejecting the plaint. Therefore, the court below has rightly exercised the discretion holding that the stand taken by the revision petitioner

cannot be decided before the full trial and dismissed the petition and I do not find any reason to interfere with the same.

10. Civil Revision Petition No.2808 of 2009 was filed against the dismissal of application filed under Order XII Rule 6 of the Code of Civil

Procedure. It was contended by the learned Senior Counsel that in the counter filed in I.A.No.14685 of 2008, it has been stated that the plaintiff is

not challenging the election but only challenges the procedure and when the plaintiff has not challenged the election, the suit is not maintainable as

he admitted in the counter that he has not challenged the election, judgment can be based on his admission.

11. The judgment reported in Jeevan Diesels and Electricals Ltd. Vs. Jasbir Singh Chadha (Huf) and Another, , the Honourable supreme Court

held that the judgment can be passed on an admission only when the admissions are clear and unambiguous. In this case, it cannot be stated that

the allegation made in the counter filed by the plaintiff is clear and unambiguous and it cannot be stated that the plaintiff has admitted that he is not

challenging the election. Hence, the court below has rightly dismissed the plaint and I do not find any reason to interfere with the order passed by

the court below. In the result, both the revision petitions are dismissed. No costs. The connected miscellaneous petitions are also dismissed.