

**IN THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE
THIRUPORUR**

PRESENT: Tmt N.Anupriya, B.A.,B.L.,(Hon's)
District Munsif Cum Judicial Magistrate,
Thiruporur.

Monday, the 09th day of December 2024

I.A.No.5/2024
in
O.S.No.433/2023

1.M/s.Alta Vida Apartments Owners Association (AVAOA),
Rep by President Mr.John Paul,

2.Mr.John Paul,

President M/s.Alta Vida Apartments Owners Association

3.Mr.Tamilarasan,

M/s.Alta Vida Apartments Owners Association Vice President

4.Mr.Murali Krishnan,

Secretary M/s.Alta Vida Apartments Owners Association

5.Mrs.Preethi Rajasekaran,

Joint Secretary, M/s.Alta Vida Apartments Owners Association

6.Mr.Rajarshi Ghosh,

Joint Treasurer M/s.Alta Vida Apartments Owners Association

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Petitioners/Defendants No.1 to 4, 6 & 8

Vs

1.T.Venkatesan, S/o.M.Thiagarajan

2.Vimal Gurunathan,

Joint Secretary, M/s.Alta Vida Apartments Owners Association

3.V.Deepak Kumar Singh,

Treasurer M/s.Alta Vida Apartments Owners Association

4.The District Registrar, Registrar of Societies,

Chengalpattu.

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Respondents/Plaintiff & Defendants No.5, 7 & 9

This Petition came up before me on 09.12.2024 for final hearing in the presence of Dr.K.Thirugnanam, Mr.S.R.Sankareshwaran, learned counsels for the Petitioners/Defendants and Mr.M.Dinesh Kumar, Ms.E.Kumari, learned counsels for the Respondents/Plaintiff & Defendants. Upon perusal of documents and hearing

arguments on both sides and having stood over for consideration till this date, this court delivers the following.

ORDER

1. The petition is filed to reject the plaint filed by the 1st respondent/plaintiff in O.S.No.433/2023 on the of this court.

2. **The brief averments in the petition:**

2.1 The petitioner herein is the 2nd defendant in the main suit. The respondent/plaintiff sought remedy challenging the resolution of the 1st defendant dated 13.05.2023 and consequential reliefs". The impugned resolution in the main suit is passed by Executive Committe of the 1st Defendant Association appointing defendants No.2 to 8 as officer beareers after fulfilling due election process. In such circumstances explaining the facts on what basis the impugned resolution is lack of merits, null and void. There is no other proper facts had been stated by the 1st respondent/plaintiff for bring the cause of action on record.

2.2 The plaintiff is not the member of the 1st defendant association but he had falsely submitted before this Court that he is a member without producing appropriate document. The 1st respondent/plaintiff is a third party to the 1st defendant association, he does not have any nexus with the 1st defendant association. No other members of the 1st defendant association has objected the impugned resolution.

2.3 The main suit is filed against defendants No.1 to 8 to harass and to interfere and disturb the working flow and day to day activities of the 1st defendant association

and there is no genuiness in the present suit. There is no propoer cause of action in the present suit. Hence the petition is filed to reject the plaint.

3. The brief averments in the counter statement:

3.1 The respondent denied the allegations except specifically admitted. Athe 1st respondent is the owner of Flat 9E in the A block and also default members in the 1st defendant association. This respondent received invitation regarding the General body meeting on 14.04.2023 and the meeting was conducted pm 15.04.2023. but there were only 51 members participated and no adequate representation. The meeting was postponed on 16.04.2023. Even on 16.04.2023, only 51 members appeared and invalid resolution passed on 16.04.2023. The resolution was illegal against bylaws. The issue arose when the plaintiff sought for book of acocunts and ledger maintenance from defendants 2 to 6 but failed to produce any copy. They even failed to produce the copy of the association bylaws.

3.2 The affairs of the association is not transparent. Petitioners 2 to 6 themselves shuffle the posts which they are holding and never letting any other member to be in the association office and is totally against the bylaws. Hence sought to dismiss the petition.

4. The arguments heard on both sides. The written submissions made on both sides. The entire records persued.

5. Now, the point for determination is – Whether the plaint is liable to be rejected for want of cause of action as required under Order VII Rule 11(a) of CPC as prayed for?

6. DISCUSSIONS-

6.1 The petition is filed by petitioners to reject the plaint on the ground that suit does not disclose a cause of action. In order to reject the plaint for non-disclosure of cause of action as required under Order VII Rule 11(a) of CPC, the allegations in the plaint shall alone be considered and the merits of the case shall not be considered.

6.2 The Hon'ble Supreme Court of India defined the cause of action in **Om Prakash Srivastava vs Union of India and Anr**, it was held "The expression "cause of action" has acquired a judicially settled meaning. In the restricted sense "cause of action" means the circumstances forming the infraction of the right or the immediate occasion for the reaction. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but also the infraction coupled with the right itself. Compendiously, as noted above the expression means every fact, which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. Every fact, which is necessary to be proved, as distinguished from every piece of evidence, which is necessary to prove each fact, comprises in "cause of action"."

6.3 In the present suit, in the plaint, the plaintiff mentioned the cause of action at para 12 of the plaint as under:

“ On 01.11.2021, when Association was formed by the M/s.Alta Vida Apartments Owners Association (AVAOA); on 29.01.2022 the said Association was registered under the Tamil Nadu Societies Registration Rules 1978; “On 10.02.2023 when the Plaintiff had requested to supply copies of bylaws and ture and proper statement of

accounts as per under Clause -17 enumerates in the bylaws”; and “On 10.04.2023 the plaintiff made a representation to the 8th defendant 3 request to appoint an election officer on or before 16.04.2023 as per the bylaws”; and “On 15.04.2023 the General Body Meeting was conducted for amending the bylaws and discussing other related matters but for the reason of quorum of members weren’t participated therefore the General Body Meeting postponed on 16.04.2023 and the same day amended the bylaw to extent the association tenure from 1 year to 3 year”; and “On 13.05.2023 the executive members of association conducted meeting on 13.05.2023 and elected a new office beareers of association”.

6.4 So according to the allegation of the plaint, the plaintiff is one of the members of the 1st defendant association and when the plaintiff sought for the accounts and by-laws of the association, it was not properly provided. Further, the General Body Meeting held on 16.04.2023 was conducted without minimum quorum and the resolution passed on 13.05.2023 is illegal as per the bylaws and the amendments made are void and has no force. The plaintiff has to prove all these facts during the trial by adducing oral and documentary evidence if denied by the defendants.

6.5 Now, it is necessary to consider the plaintiff averments in the plaint to understand whether it discloses the cause of action. It is specifically pleaded that he is the member of the 1st defendant association. The plaintiff also participated in the General Body Meeting which was conducted on 16.04.2023. The resolution was passed on 13.05.2023. The plaintiff need to be given opportunity to prove the said

assertion. On considering the plaint allegations, it is clear that, the plaint discloses the cause of action.

7. On considering the above discussions, this court is not inclined to reject the plaint for the reason that there is no cause of action.

In the result, the petition is dismissed.

Dictated to Steno-Typist directly, typed by her, corrected and pronounced this order by me on 09th day of December 2024.

S/d.N.Anupriya, 09.12.2024

District Munsif cum Judicial Magistrate,
Thiruporur

Petitioners and Respondents side Witnesses and Exhibits – Nill

S/d.N.Anupriya, 09.12.2024

District Munsif cum Judicial Magistrate,
Thiruporur.

// True Copy //

District Munsif cum Judicial Magistrate,
Thiruporur.