

ORDER BELOW EXH. 16 IN R. C. S. NO. 519/2023.

This is an application filed by defendant under Order VII Rule 11 rw S. 151 of the Code of Civil Procedure, 1908, (in short CPC) for rejection of the plaint as there is no cause of action and also the suit appears from the statement in the plaint is barred by law as the plaintiff has no any locus standi to institute the suit.

2. The defendant through the application stated that the plaintiff claiming himself to be so-called 'Swayansevak' of so-called organization namely 'Rashtriya Swayansevak Sangh' (in short as 'RSS'). The plaintiff has sought relief at the behest of so-called RSS claiming and alleging that the defendant has caused damage to the goodwill and reputation of so-called RSS. The plaintiff has claimed compensation for the defamation and damages caused to third party i.e. so-called RSS. The plaintiff has not pleaded that the so-called RSS is a 'legal person' and whether the plaintiff has been legally authorized to claim any relief on behalf of the so-called RSS and how the plaintiff is related to Golwalkar Guruji and if it is not related to leader Golwalkar Guruji, then how he can claim any relief on his behalf?. So, the plaintiff has not locus standi to file the present suit and therefore the plaint deserves to be rejected under O. VII R. 11 (d) of the Code of Civil Procedure. There is difference between 'legal person' and a 'definite and identifiable body'. He further stated that whether right to file criminal complaint on behalf of such definite and identifiable body shall be considered at par with or giving a civil right to member to file the suit. The RSS is not register body and therefore, not a legal person. In the absence of legal character and entity neither such unregistered body can sue or be sued in its own name nor authorize someone to file a civil suit. The plaintiff has also not mentioned cause of action for filing the suit. No permission of the Court has been sought by the plaintiff for filing the suit on behalf of the so-called RSS. The suit is undervalued and Court fees paid is also insufficient. The Court has not jurisdiction to entertain or decide the suit. Hence, prayed to plaint be rejected.

3. The plaintiff strongly resisted the application by filling say below exh. 18. It is contended by the plaintiff that in para no. 1 of the plaint there is pleading which speaks about what is RSS and the locus of plaintiff to file the suit. The RSS is determinate body and it will fall under the Explanation 2 of Section 499 of the IPC. So, any aggrieved person can file a complaint. There are triable issues appears from the pleading in plaint and such triable issues cannot be considered by filling the application. RSS and its Swayamsevak are inseparable. The current Hon'ble President, Vice President, Prime Minister and several Ministers in Union of India are from this esteemed Organization. Hence, prayed to reject the application.

4. Heard Learned Advocate for the defendant and also Learned Advocate for the plaintiff; at length.

5. Considering the pleadings, material on record and arguments advanced at bar, following points arise for my determination and I record my findings thereon, for the reasons discussed herein below.

POINTS

FINDINGS

[I] Whether the suit appears from the statement in the plaint that it liable to be rejected vide Order VII Rule 11 (a), (b) (c) & (d) of the Code of Civil Procedure, 1908 ?.

No

[II] What Order?

Application is rejected.

REASONS

AS TO POINTS No. 1 :-

6. Learned Advocate for the defendant argued that as there is no cause of action. The plaint is not properly valued and not paid sufficient stamp duty. The plaintiff has not locus standi to file the suit, therefore the suit is barred by law. Whereas, Learned advocate for the plaintiff argued that the suit is properly valued and

paid requisite court fee in view of relief sought and cause of action specifically mentioned in plaint. Plaintiff has locus standi to file the suit as he is Swayamsevak of esteemed organization i.e. of RSS.

7. Perused entire record of the suit. Heard Learned Advocate for both parties. Hon'ble Apex Court in - **Dahiben Vs. Arvindbhai Kalyanji Bhanusali & Ors, (2020 ALL SCR 1500)**, wherein Hon'ble Court observed as, "*The provisions of O. VII R. 11 is mandatory in nature. It states that the plaint "shall" be rejected if any of the grounds specified in clause (a) to (e) are made out. If the Court finds that the plaint does not disclose of action, or that the suit barred by any law, the Court has not option, but to reject the plaint*". It is also well settled law that the Court must consider only averments in the plaint and the documents annexed thereto while deciding an application under O. VII R. 11 of the CPC. I have carefully perused the pleading in plaint. On its perusal cause of action specifically mentioned in para no. 11 as, "*That cause of action to file the present suit arose on 08.07.2023 when the defendant posted false, unfounded, baseless and defamatory allegations against plaintiff's organization i.e. RSS*". So, there is cause of action for the suit.

8. Learned Advocate for the defendant argued that the plaintiff has not locus standi to file the suit on behalf of the so-called organization. So, now it has to be seen whether the suit appears from statement in plaint barred by any law as plaintiff has not locus standi to file the suit?. Hon'ble Bombay High Court in- **Rahul Gandhi Vs. Rajesh Mahadev Kunthe & ors, Writ Petition No. 4960 of 2014, decided on 10, March 2015** observed as, "*There is no dispute that RSS is a determinate body and it will fall under the Explanation 2 of Section 499 of the IPC. Therefore, any offended member of RSS is said to be aggrieved person and can file a complaint, against a person who intents to harm the reputation of RSS*".

9. Defendant in last para of the application seems to be formally mentioned that

the suit is undervalued and Court fees paid is also insufficient as he has not made any submission regarding thereto in argument. It is pertinent to note that defendant has not mentioned or submitted as to how the suit undervalued and how much court fees is sufficient?. It is well settled law that though the suit is undervalued or court fee paid is insufficient but on that ground plaint cannot be rejected without granting opportunity to the plaintiff to cure the same. In view aforesaid set of circumstances the application deserves to be rejected. Hence, in the interest of justice I pass following order-

ORDER

[i] The application is rejected with costs

Sd/-

Dated: 23/01/2026

(Rajesh B. Khandare)
Civil Judge [J.D.], Thane.