

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9840 OF 2016
Arising out of SLP (C) No.28796 of 2016
(Arising out of CC No. 17728 of 2016)

THE CENTRAL PROVIDENT FUND COMMISSIONER,
NEW DELHI AND ORS.

APPELLANTS

VERSUS

LALA J.R. EDUCATION SOCIETY AND ORS.

RESPONDENTS

J U D G M E N T

KURIAN, J.

1 Delay condoned.

2 Leave granted.

3 Appellants are aggrieved since the application filed under Order VII, Rule 11, CPC has been rejected.

4 According to the appellants, the respondents having exhausted all the remedies under the Employees Provident Funds and Miscellaneous Provisions Act, 1952, cannot thereafter approach the Civil Court, which is barred under Section 7L(4) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952.

5 On an application filed under Order VII, Rule 11, CPC, the Civil Court can only see the pleadings in the plaint and not anything else including written statement.

6. The main grievance urged in the plaint is that the procedure under the Act has not been followed and, therefore, the appellants are entitled to file a suit. If that be so, the plaintiff is entitled to file a suit, as held by this Court in the case of *Dhulabhai and Others Vs. The State of Madhya Pradesh and Anr.* reported in (1968) 3 SCR 662.

7. According to the appellants, the respondents have suppressed crucial facts in the plaint, which if seen, the suit is only to be dismissed at the threshold. Rejection of a plaint on institutional grounds is different from dismissal of a suit at pre-trial stage on the ground of maintainability. For dismissal on a preliminary issue, the Court is entitled and liable to look into the entire documents including those furnished by the defendant.

8. In view of the above observations, the appeal is dismissed.

9. However, we permit the appellants to raise a preliminary issue on the maintainability of the suit, in which case, before proceeding with the trial, the trial court shall deal with the same in accordance with law.

No costs.

.....J.
[KURIAN JOSEPH]

.....J.
[ROHINTON FALI NARIMAN]

NEW DELHI;
SEPTEMBER 26, 2016