

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.03.2015

Coram

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P. No.11257 of 2014

G.Mariappan

.. Petitioner

Vs

1.The Secretary to Govt.,
Commercial Taxes and Registration Department,
Secretariat, St., George Fort,
Chennai - 600 009.

2.The Inspector General Registration,
Santhome,
Chennai - 600 028.

3.The Registrar of Societies,
Chennai (Central),
Chennai - 600 018.

4.The Secretary,
Padi Manoorpettai,
Vayabarigal Sangam,
Padi, Chennai - 50.

.. Respondents

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 16.01.2014, seeking to supersede the present committee and appoint a Special Officer in fourth respondent society and pass suitable orders thereby protect the interest of the members of the society.

For Petitioner .. Mr.Sriram Panchu Sr., Counsel for
Mr.V.Chandra Prabhu

For Respondents .. Mr.R.Vijayakumar
Addl. Government Pleader for RR1-3

Mr.P.Rathanavel for R4

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr. Sriram Panchu, learned Senior Counsel appearing for Mr. V. Chandra Prabhu, learned counsel appearing for the petitioner, Mr. R. Vijayakumar, learned counsel appearing for the respondents 1 to 3 and Mr. P. Rathavel, learned counsel appearing for the fourth respondent.

3. The petitioner in this Writ Petition seeks for a direction upon the respondents to consider the petitioner's representation dated 16.01.2014, and to supersede the Committee of the Society and to appoint a Special Officer.

4. The petitioner claiming to be a Member of the fourth respondent society bearing Registration No. 113/1972, has filed this Writ Petition for the aforementioned relief, stating that the affairs of the society have been mismanaged and there are large scale misappropriation of funds and several serious irregularities. In this regard, the petitioner submitted representation before the respondents 2 and 3 on 16.01.2014, and requested for conducting an inspection and appointing a Special Officer for the society.

5. The third respondent filed a counter affidavit accepting that the petitioner's complaint dated 16.01.2014, has been received and the same is pending and that action is being taken to verify the allegations levelled by the petitioner against the society. It is further stated that if any irregularities are found, action would be taken in accordance with the provisions of Tamil Nadu Societies Registration Act, 1975. Further it is stated that the fourth respondent society does not have any substantial income and a Special Officer cannot be appointed only for the purpose of collecting the rents for the Marriage Hall owned by the fourth respondent Society and therefore, Special Officer cannot be appointed.

6. A reply affidavit has been filed by the petitioner denying and disputing the allegations made in the counter affidavit of the third respondent.

7. In the counter affidavit filed by the fourth respondent, a preliminary objection has been raised as regards the locus-standi of the petitioner. It is stated that the petitioner has been suspended by the General Body vide resolution, dated 15.12.2013 and subsequently, he has been removed from the primary membership of the society by resolution dated 16.11.2014. Copies of which have been produced before this Court in the typed set of papers filed by the

fourth respondent. Therefore, it is submitted that the petitioner has absolutely no locus-standi to maintain the Writ Petition. That apart, it is submitted that similar allegations were made by another member and a Criminal case was filed in C.C.No.213 of 2006 and the same ended in acquittal by judgment dated 22.09.2010 passed by the Judicial Magistrate Court, Ambattur. Further a Civil Suit was filed in O.S.No.136 of 2005, challenging the General Body Meeting held on 06.02.2005, before the District Munsif Court, Ambattur by some other member and the same was dismissed and confirmed in appeal in A.S.No.7 of 2008, dated 19.11.2009, on the file the Sub-Court, Poonmallee. It is further submitted that this Court in its order dated 11.07.2007, has remitted the matter back to the third respondent with a direction to examine the matter on merits, within a period of eight weeks, but the third respondent has not complied with the order passed by this Court and the matter is pending.

8. The learned Senior counsel appearing for the Writ Petitioner submitted that on a perusal of the resolution dated 15.12.2014, which is a resolution said to have passed suspending the petitioner from the society, it is clear that the resolution has been written in a different ink and therefore, that itself is illegal. Further, if any questions are asked by any of the members automatically such resolutions are passed so as to silence the persons, who are voicing their genuine grievances.

9. In the light of the above, though the petitioner would state that the order of suspension, suspending the petitioner from the society and subsequently removing him from the primary membership of the society is illegal unless he questions the same before the competent forum, the question of setting aside such order does not arise. Therefore, the plea raised by the fourth respondent that the petitioner lacks locus-standi is sustainable and therefore, prayer sought for by the petitioner in this Writ Petition is not maintainable at the instance of the petitioner. However, in the light of the stand taken by the third respondent in the counter affidavit, it is open to the third respondent to verify the correctness of the allegations and examine as to whether the affairs of the fourth respondent society are conducted in accordance with the provisions of the Act and Rules and thereafter, proceed in accordance with law.

10. With the above observations, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Secretary to Govt.,
Commercial Taxes and Registration Department,
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Chennai - 600 009.

2.The Inspector General Registration,
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3.The Registrar of Societies,
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Chennai - 600 018.

4.The Secretary,
Padi Manoorpettai,
Vayabarigal Sangam,
Padi, Chennai - 50.

+1 cc to Government Pleader,SR.18402

+1 cc to Mr.V.Chandrababhu, Advocate,SR.18479.

+1 cc to Mr.P.Rathnavel, Advocate,SR.18533.

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krd 20/4

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