

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-11-2015

(Orders reserved on 22.09.2015)

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

O.A.No.1001 of 2015 and A.No.6210 of 2015 in C.S.No.758 of 2015
and
O.A.No.842 of 2015 and A.No.5418 of 2015 in C.S.No.665 of 2015

Mr.Narasa Reddy Kondlapudi

.. Applicant in O.A.No.1001 of 2015
and A.No.6210 of 2015/
Plaintiff in C.S.No.758 of 2015

Mr.Chagarlamudi Gandhi

.. Applicant in O.A.No.842 of 2015
and A.No.5418 of 2015/
Plaintiff in C.S.No.665 of 2015

Vs.

The Andhra Social & Cultural Association,
Represented by its Hon. Secretary
No.22, Vijayaraghava Road,
T.Nagar Chennai-600 017.

.. Respondent in O.A.No.1001 of 2015
and A.No.6210 of 2015/
O.A.No.842 of 2015
and A.No.5418 of 2015/
Defendant in C.S.Nos.758 of 2015
and 665 of 2015

Original Application No.1001 of 2015 (in C.S.No.758 of 2015) is filed and the Judge's Summons issued under Order 14 Rule 8 of the Madras High Court Original Side Rules,

read with Order 39 and Rule 1 CPC, praying to grant an order of interim injunction restraining the respondent/defendant, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, from in any manner, interfering with the applicant/plaintiff from using the Club and its facilities and to take part in the affairs of the Club activities, pending disposal of the suit in C.S.No.758 of 2015.

Application No.6210 of 2015 (in C.S.No.758 of 2015) is filed and the Judge's Summons issued under Order 14 Rule 8 of the Madras High Court Original Side Rules, read with Section 151 CPC, praying to grant an order of stay of all further proceedings in pursuance of the resolutions passed on 07.06.2015 in the Extraordinary General Body Meeting held on 07.06.2015 including the termination of the plaintiff, pending disposal of the suit in C.S.No.758 of 2015.

Civil Suit No.758 of 2015 is numbered and the plaint is filed under Order 4 Rule 1 of the Madras High Court Original Side Rules, read with Order 7 Rule 1 CPC, praying to pass a judgment and decree against the defendant :

(a) for a declaration declaring the notice dated 04.05.2015 calling for convening of Extraordinary General Body Meeting and the resolution alleged to have been passed in the Extraordinary General Body Meeting as null and void;

(b) for a declaration declaring the termination letter dated 17.08.2015 alleged to have been issued in furtherance to the resolutions passed in the Extraordinary General Body Meeting dated 07.06.2015 as null and void;

(c) for a declaration declaring the resolutions alleged

to have been passed in the Extraordinary General Body Meeting held on 07.06.2015 resolving to permanently remove the parent members and the members who were admitted under children's quota alleging irregularities as null and void;

(d) for a permanent injunction restraining the defendant, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, from in any manner, whatsoever in implementing the resolutions purported to have been passed in the meeting held on 07.06.2015;

(e) for a permanent injunction restraining the defendant, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, from in any manner, whatsoever in implementing the Membership Termination of the plaintiff and thereby preventing the plaintiff from using the Club facilities in the defendant's Association, and

(f) for costs of the suit.

Original Application No.842 of 2015 (in C.S.No.665 of 2015) is filed and the Judge's Summons issued under Order 14 Rule 8 of the Madras High Court Original Side Rules, read with Order 39 and Rule 1 CPC, praying to grant an order of interim injunction restraining the respondent, their men, servants, agent(s) or any person or persons acting through or under them or for and on behalf of them, from in any manner, in implementing the resolutions alleged to have been passed to take action against the members in the Extraordinary General Body Meeting on 07.06.2015.

Application No.5418 of 2015 (in C.S.No.665 of 2015) is filed and the Judge's Summons issued under Order 14 Rule 8

of the Madras High Court Original Side Rules, read with Order 26 Rule 9 of CPC, praying to appoint an Advocate as Commissioner to seize the Minutes Book, Attendance Register and other documents relating to the conduct of the meeting of the Association and file the same into this Court within the time that may be stipulated by this Court.

Civil Suit No.665 of 2015 is numbered and the plaint is filed under Order 4 Rule 1 of the Madras High Court Original Side Rules, read with Order 7 Rule 1 CPC, praying to pass a judgment and decree against the defendant :

(a) for a declaration declaring the notice dated 04.05.2015 calling for convening of Extraordinary General Body Meeting and the resolutions alleged to have been passed in the Extraordinary General Body Meeting held on 07.06.2015 as null and void;

(b) for a permanent injunction restraining the defendant, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, from in any manner, whatsoever in implementing the resolutions purported to have been passed in the meeting held on 07.06.2015;

(c) for a declaration declaring the resolutions alleged to have been passed in the meeting on 07.06.2015 resolving to permanently remove members under children's quota alleging irregularities as null and void;

(d) for a mandatory injunction directing the defendant, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, to follow the provisions of bye-laws, namely Rules 17 and 21 insofar as it relates to action against members of the defendant society, and

(e) for costs of the suit.

For applicant :

(i) in O.A.No.1001 of 2015 and A.No.6210 of 2015 in C.S.No.758 of 2015 :

Mr.P.Sukumar

(ii) in O.A.No.842 of 2015 and A.No.5418 of 2015 in C.S.No.665 of 2015 :

Mr.S.R.Raghunathan

For respondent: (i) in O.A.No.1001 of 2015 and A.No.6210 of 2015 in C.S.No.758 of 2015 and (ii) in O.A.No.842 of 2015 and A.No.5418 of 2015 in C.S.No.665 of 2015 :

Mr.T.V.Ramanujan, Senior Counsel for Mr.V.Chandrakanthan

COMMON ORDER

The applicant in O.A.No.1001 of 2015 and A.No.6210 of 2015 in C.S.No.758 of 2015 was a member of the defendant-Association and he filed C.S.No.758 of 2015 for a declaration declaring the notice dated 04.05.2015 calling for convening of Extraordinary General Body Meeting and the resolution alleged to have been passed in the Extraordinary General Body Meeting as null and void; for a declaration declaring the termination letter dated 17.08.2015 alleged to have been issued in furtherance to the resolutions passed in the Extraordinary General Body Meeting dated 07.06.2015 as null and void; for a declaration declaring

the resolutions alleged to have been passed in the Extraordinary General Body Meeting held on 07.06.2015 resolving to permanently remove the parent members and the members who were admitted under children's quota alleging irregularities as null and void; for a permanent injunction restraining the defendant, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, from in any manner, whatsoever in implementing the resolutions purported to have been passed in the meeting held on 07.06.2015; for a permanent injunction restraining the defendant, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, from in any manner, whatsoever in implementing the Membership Termination of the plaintiff and thereby preventing the plaintiff from using the Club facilities in the defendant's Association, and for costs of the suit.

2. Pending the said suit in C.S.No.758 of 2015, the applicant filed Original Application No.1001 of 2015 for an order of interim injunction restraining the respondent/defendant, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, from in any manner, interfering

with the applicant/plaintiff from using the Club and its facilities and to take part in the affairs of the Club activities. He also filed Application No.6210 of 2015 in C.S.No.758 of 2015 for an order of stay of all further proceedings in pursuance of the resolutions passed on 07.06.2015 in the Extraordinary General Body Meeting held on 07.06.2015 including the termination of the plaintiff, pending disposal of the suit in C.S.No.758 of 2015.

3. It is the case of the applicant in O.A.No.1001 of 2015 and A.No.6210 of 2015 in C.S.No.758 of 2015 that he was a life member of the defendant-Association since 1983, that he had been using the Club facilities and attended the meetings and took part in several activities of the Association. He was elected as President of the Association and served as President during 2007-2009 and 2009-2011 for two consecutive terms of four years. He was regular in paying the charges and bills. It is further stated that the defendant-Association is a Society registered under the provisions of the Tamil Nadu Societies Registration Act, formed on 24.01.1952 and houses all facilities and the defendant-Association's primary object is to provide forum for people from Andhra Pradesh who have migrated to Chennai city or residing permanently or temporarily in Chennai

city. An Associate Member will be admitted whose mother tongue is not a Telugu and all other memberships are open only to persons whose mother tongue is Telugu and the Associate Member has no voting rights. From the residential quarters built mainly for outstation members, the defendant-Association earned amounts which were utilised for various activities of the Club. It is further stated that when the applicant was President, he renovated the existing residential rooms and constructed additional 16 suit-rooms which earned Lakhs of Rupees to the Association and during his Presidentship, the Club earned Lakhs of Rupees and the Audit report shows the surplus income of the Club. The applicant donated Rs.8 lakhs during June and July 2012 and got a sponsorer for Rs.2 lakhs for conducting international snooker/billiards tournament in the defendant-Association, which brought laurels to the Club and the image of the Club increased in public. It is further stated that Bye-law 5 of the Association provides for enrolment of members and the entrance fee was increased periodically and based on the amendment made to Bye-law 5 in Bye-law 5(n), applications were called for admission of membership under relatives, i.e. members' children, son or son-in-law, for which, the applicant submitted application

proposing the name of one Mr.Ramesh Kumar Reddy, which was processed by various Committees and he was approved finally as a member in the Managing Committee meeting held on 16.03.1997. It is further stated that the procedure for rejection of a membership is defined in Bye-law 6 of the defendant-Association and Bye-law 7 deals with removal of membership, and a member cannot be removed except by procedures laid down under Bye-law 7, that a member can be expelled for misconduct as stated in Bye-law 7(e), that the 'misconduct' is defined in Bye-law 22 of the Association and when once a member has been admitted under the children's quota after verifying all records, the same cannot be re-opened at later date and no action could be taken subsequently.

4. It is the further case of the applicant in O.A.No.1001 of 2015 and A.No.6210 of 2015 that the said Mr.Ramesh Kumar Reddy is the adopted son of the applicant and his wife and he was admitted as a member under the children's quota on 16.03.1997 by accepting the version of the applicant that he is the adopted son of the applicant and he had been enjoying all the facilities of the Club and paying the Club bills regularly. That being so, based on the Digitization form sent on 24.12.2014 to the parent

members and on 04.01.2015 to the children members, to find out the anomalies in the admission of members under children's quota under the instructions of the Scrutiny Committee, and based on communications between the applicant and the defendant-Association, the membership of the applicant was terminated, which is evident from the letter dated 17.08.2015 sent by the defendant-Association to the applicant, without any explanation or calling the applicant for enquiry and the termination should be based on Bye-law 22 of the Association. It is further stated that the applicant was blessed with a daughter in 1998 and he gave up the idea of adopting the said Ramesh Kumar Reddy as a son and the adoption process was going on while he was admitted as a member under children's quota and the termination of the applicant's membership is illegal as no opportunity was given to the applicant to explain the circumstances under which the said Ramesh Kumar Reddy was admitted as a member under children's quota.

5. It is the further case of the applicant in O.A.No.1001 of 2015 and A.No.6210 of 2015 in C.S.No.758 of 2015 that the said letter dated 17.08.2015 speaks about the notice dated 04.05.2015 for the Extraordinary General Body Meeting to take action towards the anomalies in the

membership under children's quota and a Resolution was passed in the said meeting. It is further stated that there is no power to pass a Resolution to terminate a member admitted in the children's quota, and the said meeting is ab-initio-void, because, (i) the same was not convened as per the procedures prescribed under Bye-laws 17 to 19, which deals with convening of Annual General Meeting and Extraordinary General Body Meeting and Special Resolution passed thereunder, (ii) the procedures contemplated under Bye-laws 22 and 17 have not been followed in conducting the said meeting, that no enquiry was conducted for removal of a member, (iii) the notice for the said meeting is in violation of Section 28 of the Tamil Nadu Societies Registration Act, and (iv) no notice was issued to many voting members including the applicant, and (v) the resolution for terminating the membership of the applicant was not approved by 2/3 majority of the members present in the meeting, thereby, the Resolution is defeated.

6. The applicant in O.A.No.1001 of 2015 and A.No.6210 of 2015 in C.S.No.758 of 2015 further states that the President and Managing Committee had not approved the resolution of the said meeting for termination of the applicant's membership and action has to be initiated

against all members of the Managing Committee responsible for admission of the member initially under children's quota. The Honorary Secretary has acted against the Bye-laws of the Association in terminating the membership of the applicant. As per the provisions of the Tamil Nadu Societies Registration Act, the Annual General Body Meeting of the defendant-Association was due in September 2015 and only the Managing Committee had powers under Bye-law No.11 to form various Committees, like Disciplinary Committee, Cards Committee, Canteen and Bar Committee, Sports Committee and Public Relations Committee and anticipating filing of suits by the affected members, the Honorary Secretary released Rs.3.50 lakhs to Advocates for filing Caveat Petitions in City Civil Court and this Court, without the approval of the Managing Committee. It is further stated that due to the mis-management by the present Honorary Secretary, the Association is under loss of about Rs.40 lakhs and the Managing Committee usurped powers and acted unilaterally in violation of the Bye-laws of the Association. In view of termination of the applicant's membership, he has been deprived of using the Club facilities and will be prevented from contesting in the Elections to the Association, and hence, the applicant

has filed the suit in C.S.No.758 of 2015 for the above prayer and pending the said suit, he has filed O.A.No.1001 of 2015 and A.No.6210 of 2015 for the reliefs stated supra.

7. The applicant in O.A.No.842 of 2015 and A.No.5418 of 2015 in C.S.No.665 of 2015 is also a member of the defendant-Association and he filed C.S.No.665 of 2015 for a declaration declaring the notice dated 04.05.2015 calling for convening of Extraordinary General Body Meeting and the resolutions alleged to have been passed in the Extraordinary General Body Meeting held on 07.06.2015 as null and void; for a permanent injunction restraining the defendant, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, from in any manner, whatsoever in implementing the resolutions purported to have been passed in the meeting held on 07.06.2015; for a declaration declaring the resolutions alleged to have been passed in the meeting on 07.06.2015 resolving to permanently remove members under children's quota alleging irregularities as null and void; for a mandatory injunction directing the defendant, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, to follow the provisions of Bye-laws,

namely Bye Laws 17 and 21 insofar as it relates to action against members of the defendant society, and for costs of the suit.

8. Pending the said suit in C.S.No.665 of 2015, the applicant filed Original Application No.842 of 2015 for an order of interim injunction restraining the respondent, their men, servants, agent(s) or any person or persons acting through or under them or for and on behalf of them, from in any manner, in implementing the resolutions alleged to have been passed to take action against the members in the Extraordinary General Body Meeting on 07.06.2015. He also filed Application No.5418 of 2015 in C.S.No.665 of 2015 for appointment of an Advocate as Commissioner to seize the Minutes Book, Attendance Register and other documents relating to the conduct of the meeting of the Association and file the same into this Court within the time that may be stipulated by this Court.

9. It is the case of the applicant in O.A.No.842 of 2015 and A.No.5418 of 2015 in C.S.No.665 of 2015 that he is a life member of the defendant-Association from 1972 and ever since he had been using the facilities and exercised his right as a member of the Association and attended the meetings and took part in several activities of the

Association. He was regular in paying the charges and bills. The defendant-Association is a Society registered under the provisions of the Tamil Nadu Societies Registration Act, formed on 24.01.1952 and houses all facilities. It is further stated that the defendant-Association's primary object is to provide forum for people from Andhra Pradesh who have migrated to Chennai city or residing permanently or temporarily in Chennai city. It is further stated that library, recreation, sports and cultural programmes, tournaments (both indoor and outdoor) and entertainments, were other objects for which the defendant-Association is formed. The membership to the Club as per the Bye-laws of the Association is under various categories like Honorary Member, Patron, Life Member, Ordinary Member, Associate Member, Temporary Member, Institution Member, Associate Life Member and Independent Lady Member. An Associate Member will be admitted whose mother tongue is not a Telugu and all other memberships are open only to persons whose mother tongue is Telugu and the Associate Member has no voting rights. It is further stated that Bye-law 5 of the Association provides for enrolment of members, and periodically, the entrance fee for membership was increased. Bye-law 6 of the Association provides for

rejection of applications of persons, Bye-law 7 provides for removal of membership, the powers of the Managing Committee are mentioned in Bye-law 11. The Managing Committee consists of elected members, namely the President, Vice-President, Honorary Secretary, Joint Secretary, Treasurer, Cultural Secretary and seven Committee Members and the Managing Committee had right to appoint one or more sub-committees like Disciplinary Committee, Cards Committee, Canteen and Bar Committee, Sports Committee and Public Relations Committee. It is further stated that Bye-law 17 provides for meetings like Annual General Meeting by notice, Bye-law 18 deals with Extraordinary General Body Meeting by notice, Bye-law 19 deals with passing of Special Resolution and Bye-law 22 deals with conduct of members, suspension of members, issuance of show cause notice and the powers of the Disciplinary Committee and the Managing Committee. Bye-law 22 specifically provides for removal of membership on suspension, enquiry, show cause notice, explanation, etc. By amendment to Bye-law 7 in Clause (b), the quorum of members was increased to 150.

10. It is the further case of the applicant in O.A.No.842 of 2015 and A.No.5418 of 2015 in C.S.No.665 of

2015 that the Honorary Secretary, by notice dated 04.05.2015, called for Extraordinary General Body Meeting, in which the main agenda was to discuss and deliberate the action to be taken towards the anomalies noticed under Children's quota membership. The applicant attended the said meeting which was held on 07.06.2015, in which resolutions were passed with regard to removal of membership admitted under children's quota. It is further stated that there is no power to pass a resolution to terminate a member admitted in the children's quota, and the said meeting is ab-initio-void, because, (i) the same was not convened as per the procedures prescribed under the Bye-laws, (ii) the procedures contemplated under Bye-laws 22 and 17 have not been followed in conducting the said meeting, that no enquiry was conducted for removal of a member, (iii) the notice for the said meeting is in violation of Section 28 of the Tamil Nadu Societies Registration Act, and (iv) no notice was issued to many voting members and (v) the Resolution for terminating the membership of the members was not approved by the majority of the voting members present in the meeting, thereby, the Resolution is defeated.

11. The applicant in O.A.No.842 of 2015 and A.No.5418

of 2015 in C.S.No.665 of 2015 further states that the Honorary Secretary has acted against the Bye-laws of the Association in terminating the membership of the members by usurping powers. The applicant issued legal notice to the defendant-Association and their office bearers on 24.06.2015 pointing out the defects, irregularities and conduct of Extraordinary General Body meeting, for which, there was no reply from the defendant. Hence, the applicant has filed the suit in C.S.No.665 of 2015 for the above prayer. The applicant further states that balance of convenience and prima-facie case are in favour of the applicant for grant of interim injunction and if the same is not granted, the applicant would be put to irreparable hardship and will be prejudiced. Further, the Minutes Book, Attendance Register and other documents relating to the said meeting held on 07.06.2015, are to be seized through an Advocate Commissioner, for verification whether the resolutions taken in the said meeting are recorded as per Bye-laws. Hence, pending the said suit, he has filed O.A.No.842 of 2015 and A.No.5418 of 2015 for the reliefs stated supra.

12. The respondent/defendant filed common counter affidavit in O.A.No.1001 of 2015 and A.No.6210 of 2015 in

C.S.No.758 of 2015, and the learned counsel for the respondent/defendant adopted the same counter for O.A.No.842 of 2015 and A.No.5418 of 2015 in C.S.No.665 of 2015. The respondent/defendant stated in the common counter affidavit that the suits filed by the applicants/plaintiffs are not maintainable in law and on facts. The applicants/plaintiffs are members of the respondent/defendant-Association, which was formed on 24.01.1952 and registered under the Tamil Nadu Societies Registration Act with the objects as set out in the Bye-laws of the Association. In order to provide concession to the children of the members, a scheme for admission of member's relatives was introduced in Bye-law 5(n), indicating that member's children, son or son-in-law (one only) would be admitted to the membership of the Association, subject to approval of the Managing Committee and upon payment of 1/3 of the membership fees prevailing at the time of admission and the said scheme was introduced in 1997 under the belief that the members will not misuse the same by false declaration. It is further stated in the counter that upon receipt of complaints that number of children were admitted as members under children category on false declaration made by parents, which was reported to

the Managing Committee on 30.09.2014 and after discussion, the Managing Committee decided to place the matter before the Annual General Body Meeting, which was held on 05.10.2014, in which, the members attended and unanimously passed a Resolution to appoint a Scrutiny Committee under the Chairmanship of the Vice-President of the Association to find out the anomalies in the admission of members under children category. There was no objection raised by the applicants in the said Annual General Body Meeting. The Scrutiny Committee, in order to verify the records, sent Digitization Forms to the members and children and the Managing Committee called for a meeting of past Presidents, Secretaries, Donors, on 11.05.2015 requesting them to give suggestions, if any and to take further action. The past Presidents including the applicant, attended the said meeting and did not raise any objection. The report of the Scrutiny Committee was placed before the Managing Committee, which decided to call for an Extraordinary General Body Meeting to discuss and deliberate the action to be taken towards the anomalies noticed under the children's quota membership. It is further stated in the counter that the Extraordinary General Body Meeting was held on 07.06.2015, which was attended by the

applicants/plaintiffs, who signed the Attendance Register, and a Resolution for termination of some of the children's quota membership was passed on that day and the same was considered by the Managing Committee on 22.06.2015, which decided to implement the Resolution. The Managing Committee appointed a Sub-Committee to take every step, peruse the records and issue show cause notice calling for explanation. Accordingly, show cause notices were issued to the parents/children members calling for explanation. A show cause notice dated 22.07.2015 was issued to the applicant/plaintiff in C.S.No.758 of 2015 and by explanation/reply, dated 28.07.2015, he admitted his guilt that Ramesh Kumar Reddy is not his son, and accordingly, after considering the said explanation, termination letter, terminating the membership of the applicant/plaintiff in C.S.No.758 of 2015 was issued on 17.08.2015 and the applicant/plaintiff in C.S.No.758 of 2015 and the said Ramesh Kumar Reddy are not entitled to continue as members for the illegal action committed by them and as the guilt was admitted, conduct of enquiry is not needed in the case of the applicant/plaintiff in C.S.No.758 of 2015.

13. It is further stated in the counter affidavit that in view of the illegal action of the applicant/plaintiff in

C.S.No.758 of 2015, the Association suffered heavy loss in the admission fees, that the applicant/plaintiff in C.S.No.758 of 2015 was not removed either under Bye-law 7 or under Bye-law 22 and he cannot rely on Bye-law 7 or Bye-law 22, as the Extraordinary General Body Meeting was conducted as per Bye-law 18 and the termination was based on the decision of the Managing Committee, which has power to take action on the basis of false declaration made by the applicant/plaintiff in C.S.No.758 of 2015. It is further stated that the deponent (Honorary Secretary of the Association) of the counter affidavit has no personal enmity against the applicants/plaintiffs. The Extraordinary General Body Meeting was called for after notice as contemplated under Bye-law Nos.17 to 19. The said Extraordinary General Body Meeting was called for as per the provisions of the Tamil Nadu Societies Registration Act and a Resolution dated 07.06.2015 is not a Special Resolution, which requires 3/4 majority. It is further stated in the counter that the termination of the members is not coming under the Special Resolution as contemplated under Bye-law No.19 and the respondent-defendant-Association followed Bye-law No.17 for calling for Annual General Body Meeting and Extraordinary General Body

Meeting. The Extraordinary General Body Meeting was called for on 07.06.2015 as per Bye-law 18(1) and Bye-law 19 is not applicable, which is required only for Special Resolution. The first agenda in the notice to the said Extraordinary General Body Meeting does not require 3/4 majority as contemplated under Bye-law 19(1) of the Association.

14. It is further stated in the counter affidavit that the Association is not running at a loss of roughly Rs.40 lakhs as alleged by the applicant/plaintiff in C.S.No.758 of 2015 and the Association is running profitably with several Crores of Rupees. The Executive Committee has implemented the decision taken in the Extraordinary General Body Meeting, which was accepted by the members and the same has become final. The Executive Committee has jurisdiction and power to take such decision. As the membership of the applicant/plaintiff in C.S.No.758 of 2015 had been terminated from 17.08.2015, he cannot take part in the affairs of the Club/Association as a member and cannot claim voting right and if any interim order is granted, it would amount to decreeing the suits and also would amount to execution before judgment. It is further stated in the counter that the balance of convenience is against the

applicants/plaintiffs and they have to await the result of the suits. The membership of the Club does not create any civil right and the members of the Club will use only the facilities available in the Club like taking part in the games, events and having food in the restaurants, and nothing else. It is further stated in the counter that the applicants are only licensees and they have been given leave and licence only to enjoy the facilities in the Club. The applicant/plaintiff in C.S.No.758 of 2015 who acted in breach of trust, cannot claim any equity. The election / Annual General Body Meeting was scheduled to be held on 25.10.2015. The respondent/defendant prayed for dismissal of the applications filed by the applicants/plaintiffs, as the same are not sustainable in law.

15. Learned counsel for the applicant in O.A.No.1001 of 2015 and A.No.6210 of 2015 in C.S.No.758 of 2015 contended that the applicant was a life member of the defendant-Association and he was an active member of the Association and had been enjoying and using all the facilities of the Association. He further stated that the applicant was President of the defendant-Association for two consecutive terms in 2007-2009 and 2009-2011 and even after laying down the office of the President, he donated Rs.8 lakhs during

June and July 2012 and got a sponsorer for Rs.2 lakhs for conducting international snooker/billiards tournament. Learned counsel further stated that the applicant submitted application dated 27.02.1997 proposing the name of Mr.Ramesh Kumar Reddy, under children quota, as a member of the Association, that the said application was processed by various Committees and the said Mr.Ramesh Kumar Reddy was admitted as a member of the defendant-Association on 16.03.1997 as per the Bye-laws of the Association. Learned counsel further contended that Bye-law 7 prescribes the procedure for removal of a member and Bye-law 22 of the Association states about the conduct of any member, but contrary to the Bye-laws of the Association, he was removed from the membership by the defendant-Association. Learned counsel further stated that the Honorary Secretary usurped the powers and acted unilaterally in removing the applicant's membership, which is illegal, and hence, the applicant filed C.S.No.758 of 2015 and pending the said suit, he has filed O.A.No.1001 of 2015 for interim injunction and A.No.6210 of 2015 for stay and he prayed for allowing both these applications.

16. Learned counsel for the applicant in O.A.No.842 of 2015 and A.No.5418 of 2015 in C.S.No.665 of 2015 contended

that the applicant is a life member of the defendant-Association and he is an active member of the Association, took part in several activities of the Association and he has been enjoying all the facilities of the Association. He further stated that there are so many categories of membership like Honorary Member, Patron, Life Member, Ordinary Member, Associate Member, Temporary Member, Institution Member, Associate Life Member, Independent Lady Member, etc., and entrance fees are prescribed for the above categories of members. He further stated that there are so many Committees including the Managing Committee constituted by the defendant-Association and the Bye-laws of the Association provide for the procedures for removal of members who act contrary to the Bye-laws. He further stated that Extraordinary General Body Meeting of the defendant-Association was conducted on 07.06.2015 and some office bearers of the Association acted contrary to the Bye-laws in conducting the said Extraordinary General Body Meeting and the Resolution passed in the said Extraordinary General Body Meeting is not approved and the same does not support the majority of the voting members who attended the said Extraordinary General Body Meeting. The Resolution is alleged to have been approved by only 63 out of 277 voting

members who were present in the said meeting, which cannot be construed as majority and hence, in view of the above invalid and unapproved Resolution, the respondent-defendant-Association has no right to interfere with the rights of the membership. Learned counsel further stated that based on the said Resolution, some of the members have been allegedly removed from the Association, and hence, the applicant filed C.S.No.665 of 2015 and pending suit, he has filed O.A.No.842 of 2015 for interim injunction and A.No.5418 of 2015 for appointment of Advocate Commissioner to seize the Minutes Book, Attendance Register and other documents relating to the conduct of the meeting of the Association and produce the same before this Court and he prayed for allowing these applications.

17. Learned Senior Counsel appearing for the respondent-defendant-Association submitted that the applications are not maintainable in law. The applicant in O.A.No.1001 of 2015 was the past President of the Association for two consecutive terms and a member's son or son-in-law (one only) will be admitted to the membership of the Association, subject to the approval of the Managing Committee and upon payment of 1/3 of the membership fees prevailing at the time of admission. The Scrutiny Committee

was appointed to find out the anomalies in admission of members under the children quota. The applicants being the life members of the defendant-Association and more particularly, the applicant in O.A.No.1001 of 2015 being the past President of the Association, are aware of the fact that many illegal admissions were made in the children quota membership based on false representation and on verification of records, the Managing Committee called for a meeting of the past Presidents, Secretaries, Donors, etc., on 11.05.2015 to request them any suggestions to take further action. The applicant in O.A.No.1001 of 2015 also attended the said meeting and did not raise any objections against the Scrutiny Committee and the report of the Scrutiny Committee was placed before the Managing Committee, which decided to call for an Extraordinary General Body Meeting, which was held on 07.06.2015 and after elaborate discussion, a Resolution was passed in the said meeting for termination of children/parents members. Learned Senior Counsel further stated that show cause notice was issued to the applicant in O.A.No.1001 of 2015, as he obtained membership for Ramesh Kumar Reddy on false representation and declaration. The Resolution passed on 07.06.2015 in the Extraordinary General Body Meeting was

implemented and the membership of the applicant in O.A.No.1001 of 2015 was terminated on 17.08.2015 and only as per the Bye-laws, action was taken by the respondent-defendant-Association. Learned Senior Counsel further submitted that the Extraordinary General Body Meeting was properly held and Resolution was passed and then only the Managing Committee rightly terminated the membership of the applicant in O.A.No.1001 of 2015. The learned Senior Counsel therefore submitted that the applications are not maintainable and are liable to be dismissed.

18. Heard the learned counsel appearing for the parties and perused the materials available on record.

19. It is admitted that both the applicants are life members of the defendant-Association. The applicant in O.A.No.1001 of 2015 was the President of the Association for consecutive terms from 2007-2009 and 2009-2011. It is also admitted that Ramesh Kumar Reddy was sponsored by the applicant in O.A.No.1001 of 2015 in the children quota membership and his application was processed and he was appointed as member in children quota membership. It is also admitted that both the applicants have been enjoying and using the facilities of the defendant- Association. It is further admitted that the Extraordinary General Body

Meeting was held on 07.06.2015.

20. It is the main submission of the learned Senior Counsel appearing for the respondent-Association that in the Extraordinary General Body Meeting held on 07.06.2015, Resolution was passed for termination of illegal admission of members under children quota and the said Resolution was implemented terminating the membership of the applicant in O.A.No.1001 of 2015. He further submitted that the action of the respondent-Association is only as per the Bye-laws of the Association and hence, the applications are liable to be dismissed.

21. In view of the above submissions of the learned Senior Counsel appearing for the respondent-Association, it has to be analysed as to whether the Resolution was passed as per the Bye-laws of the respondent-Association. It is relevant to extract the relevant Bye-laws, as follows:

"Bye-law 5: Enrolment of members:

(a) The Association shall consist of members who may be

1. Honorary Member
2. Patron
3. Life Member
4. Ordinary Member
5. Associate Member
6. Temporary Member
7. Institutional Member
8. Associate Life Member
9. Independent Lady Member

... ..

....
.....

Admission of member's relatives

(n) Member's Children Son or Son-in-law (one only) will be admitted to the Membership of A.S.C.A. subject to approval of the Management Committee and upon payment of 1/3 of the Membership fees prevailing of at that time of admission "

Bye-law 7: (a) Any member may be removed from the rolls, under the following circumstances:

i) If a Member is found to be of unsound mind by a court of competent jurisdiction.

ii) If he applies to be adjudicated insolvent and or he is adjudged as an insolvent.

iii) If he is convicted by a competent Court of law for an offence involving moral turpitude.

iv) If a resolution terminating such membership is passed by the majority of not less than two third of members voting at a General Body Meeting of the Association concerned as provided in Clause 22 of the Bye-law.

(b) Any member who has been so removed from the Association will not be considered for Membership again.

Bye-law 18: Extraordinary General Body Meeting:

1) The Executive Committee may at any time call an Extraordinary General Body Meeting of the Association by giving 21 days notice to the members providing time and the manner for an Annual General Body Meeting.

2) The Executive Committee shall call such meeting within thirty days from the date of receipt of a requisition in writing from not less than 1/10th of the members eligible to attend and vote in General Body Meeting of the Association.

3) The provisions contained supra for an Annual General Body Meeting of the Members shall apply mutual mutandis to and Extraordinary General Body Meeting.

4) If the Extraordinary General Body Meeting is not called in accordance with such requisition, within the time prescribed above the

requisitions may summon such a meeting themselves and elect one among themselves as the Chairman of the Meeting.

Bye-law 22: General:

a) Any member who conducts himself within the premises of the Association in an unruly, disorderly or riotous behaviour, or acts in any manner likely to disturb the harmony or peace of the Association, or any at which tends to brings down the esteem of the Association shall be suspended pending enquiry into the conduct immediately by the Hony. Secretary. Under extraordinary circumstances and aforesaid misconduct outside the premises enquiry will be conducted and punishment will be imposed by the Managing Committee.

b) The Members so suspended shall be served with a show cause notice setting out the misconduct within seven days from the date of suspension aforesaid, and it shall be signed by the convener of the Disciplinary Committee.

c) The Members who is so served with a show-cause notice should submit his explanation within 7 days from the date of serving of the show-cause notice to the Disciplinary Committee.

d) The Disciplinary Committee shall submit its findings and also suggest to the Managing Committee the punishment if any, that may be imposed on the member. The punishment may be any of the following:

1. Suspension
2. Expulsion

e) The Managing Committee shall consider the above said findings submitted by the Disciplinary Committee and may accept the findings of the Disciplinary Committee.

f) The Managing Committee shall decide the quantum of punishment on the basis of the findings and suggestions of the Disciplinary Committee and impose the punishment. The decision of the Managing Committee under Clause 22(e) above shall be taken on the basis of simple majority of the committee members present and voting.

g) The member who is so punished under Clause 22(e) above shall be disqualified for a

period of 3 years from contesting to the post of any office-bearer or committee member.

h) If the Managing Committee decided to expel any member by way of punishment, the said resolutions may be placed in a Meeting of the General Body either Annual or Extraordinary and the said punishment shall be imposed of 2/3rd of the General Body present for voting to pass the resolution. Provided that the member who is sought to be expelled shall be given an opportunity to address orally or in writing the General Body regarding the same.

....."

22. From the above Bye-laws, it is seen that as per Bye-law 7, any member may be removed from the rolls, (i) if a Member is found to be of unsound mind by a Court of competent jurisdiction, (ii) if he applies to be adjudicated insolvent and/or he is adjudged as an insolvent, (iii) if he is convicted by a competent Court of law for an offence involving moral turpitude and (iv) if a resolution terminating such membership is passed by the majority of not less than two third of members voting at a General Body Meeting of the Association concerned as provided in Bye-law 22. It is admitted by both sides that any member of the respondent-Association may be removed from the rolls as per Bye-law 7 quoted above. It is further seen that Bye-law 22 specifically provides the circumstances under which a member of the respondent-Association can be suspended or expelled and Clause (h) to

Bye-law 22 states that if the Managing Committee decided to expel any member by way of punishment, Resolution may be placed in a Meeting of the General Body either Annual or Extraordinary and the said punishment shall be imposed by Resolution by majority of not less than 2/3 of members of the Association present for voting to pass the Resolution, provided that the member who is sought to be expelled shall be given an opportunity to address orally or in writing to the General Body regarding the same.

23. Admittedly, on 07.06.2015, there was Extraordinary General Body Meeting and notice dated 04.05.2015 was issued for convening of the said meeting, which reads as follows:

"Notice is hereby given that Extraordinary General Body Meeting (EGM) of the members of Andhra Social & Cultural Association will be held on 07.06.2015 (Sunday) at 10.00 A.M. at Godavari Hall.

AGENDA

1. To discuss and deliberate the action to be taken towards anomalies noticed under Children's Quota Membership.
2. To discuss and approve on the proposed amendment of Bye Laws.
3. To discuss and approve the proposal to construct Multilevel Car Parking.
4. Any other matters with the permission of the Chair.

Sd/- B.Veeraiah
Hony. Secretary

Place: Chennai
Date: 04.05.2015"

24. On a reading of the above notice, it is seen that notice was issued on 04.05.2015, i.e. 21 days prior to the meeting, and there were four subjects in the Agenda. There is no specific Agenda for removal of the membership of member(s) or expulsion of member(s) from the respondent-Association. It is settled principle that if members are previously not informed regarding the subject(s) to be discussed in the meeting, the decision taken surprisingly without any notice/Agenda for removal of membership, is not maintainable. In this case, removal of membership of the applicant in O.A.No.1001 of 2015 or any other member, or expulsion of any member, is not at all mentioned in the Agenda in the above extracted notice. Subject-1 of the said Agenda deals with discussion and to deliberate the action to be taken towards anomalies noticed under Children's Quota Membership. Strangely, on 07.06.2015, the subject regarding expelling the membership of the members had been taken into consideration and the Resolution was passed illegally, which is per-se not in accordance with the Bye-laws of the Association.

25. As far as attendance of the members in the Extraordinary General Body Meeting held on 07.06.2015, it

is seen that only 277 members attended the meeting. From the Minutes of the said meeting held on 07.06.2015, it is seen that a Resolution was passed in Categories D and E, as follows:

"D) What action to be taken against the members who have given wrong details/application with anomalies and obtained Children's quota membership ?

A) Permanently remove from ASCA membership.

B) Impose a fine equivalent to the difference amount at the prevailing rate and debar from contesting in ASCA elections for 6 years or life time.

Voting taken place by way of raising hands and required majority of the members as per Bye law opted for option A.

It was resolved by the majority of the members that all such members who were wrongly submitted details and obtained membership under the Children's quota, identified by the Scrutiny Committee will be removed from the rolls of ASCA and the amount paid by them at entry level of membership will be forfeited. It is further resolved that such members will not be eligible for readmission under any category of membership.

E) What action to be taken against the parent members who have recommended the applicant with anomalies and to obtain Children's quota membership ?

A) Permanently remove from ASCA membership

B) To suspend for a particular period and debar from contesting ASCA elections for a period of 6 years.

Voting taken place by way of raising hands and 63 members opted for option A and 40 members opted for Option B.

It is resolved based on the majority of members

opinion that all such parent members who were instrumental in admission of applicants with anomalies under children's quota membership, will be permanently removed from the rolls of ASCA and the amount paid by them at entry level of membership will be forfeited. It is further resolved that such members will not be eligible for readmission under any category of membership."

26. From a reading of the above Resolution in Category E, it is seen that the subject, namely "what action to be taken against the parent members who have recommended the applicant with anomalies and to obtain Children's quota membership", was taken up for discussion and voting had taken place by way of raising hands and 63 members opted for Option A and 40 members opted for Option B. Hence, even according to the respondent-Association, the Resolution was passed by majority of members in Option A, i.e. 63 members voted in majority in Option A for permanently removing the members from the Association and only 40 members opted for Option B. It is seen that totally 277 members attended the meeting. But from the above Resolution, it is seen that only 103 members (63+40) voted for the Resolution and among them, 63 voted for Option A and 40 members voted for Option B. As per Bye-law Nos.7 and 22 of the Association, the Resolution terminating the membership is to be passed by

2/3 majority of the members present in the meeting. It is not so in the case on hand. Even assuming for argument sake that only 103 members were present in the meeting, two-third of 103 members will be 68 members, but, the Resolution was passed in Option A only by 63 members, which is contrary to the Bye-laws. Hence, it has to be inferred that the respondent-Association has not conducted the meeting as per the Bye-laws for removal of membership. Thus, the Resolution passed by the respondent-Association is illegal and the same is not enforceable. Therefore, this Court is of the view that the Resolution passed in the said Extraordinary General Body Meeting held on 07.06.2015 to remove the applicant in O.A.No.1001 of 2015 from the rolls of members, is not valid, as the respondent-Association has not followed the procedures contemplated under the Bye-laws of the Association.

27. Learned Senior Counsel appearing for the respondent-Association relied on a decision of a Division Bench of this Court reported in 2001 (3) CTC 349 (Chennai Kanchi Tiruvelore Dist. Film Distributor Assn. Vs. Chinthamani S.Murugesan), which deals with conversion of membership and the action taken by the Association thereon. In the case on hand, the Association has admitted members

under children quota and subsequently they have been removed by passing a Resolution contrary to Bye-laws and since the applicant herein was removed illegally contrary to bye-laws of the Association, and since his civil right has been infringed, he has right to file the Civil Suit. Hence, the said decision of the Division Bench is not applicable to the case on hand.

28. In view of the above discussion, the applicant in O.A.No.1001 of 2015 is deemed to be the member of the Association continuously and he is entitled to all the privileges as before 07.06.2015. Accordingly, O.A.No.1001 of 2015 in C.S.No.758 of 2015, filed for interim injunction and A.No.6210 of 2015 in C.S.No.758 of 2015, filed for stay, are allowed. Consequently, O.A.No.842 of 2015 in C.S.No.665 of 2015 filed for interim injunction, by the other member, is also allowed.

29. With regard to A.No.5418 of 2015 in C.S.No.665 of 2015 filed by the other member, to appoint an Advocate Commissioner to seize the Minutes Book, Attendance Register and other documents relating to the conduct of the meeting the Association and file the same before this Court, it is seen that both members produced necessary documents by enclosing the same in the typed set of papers, and those

documents include the Minutes Book and the Attendance Register, and those documents are not disputed by the respondent-Association. Hence, there is no necessity to appoint the Advocate Commissioner to seize the said documents. Accordingly, A.No.5418 of 2015 in C.S.No.665 of 2015 is dismissed.

Sd/G.C.J
23.11.2015

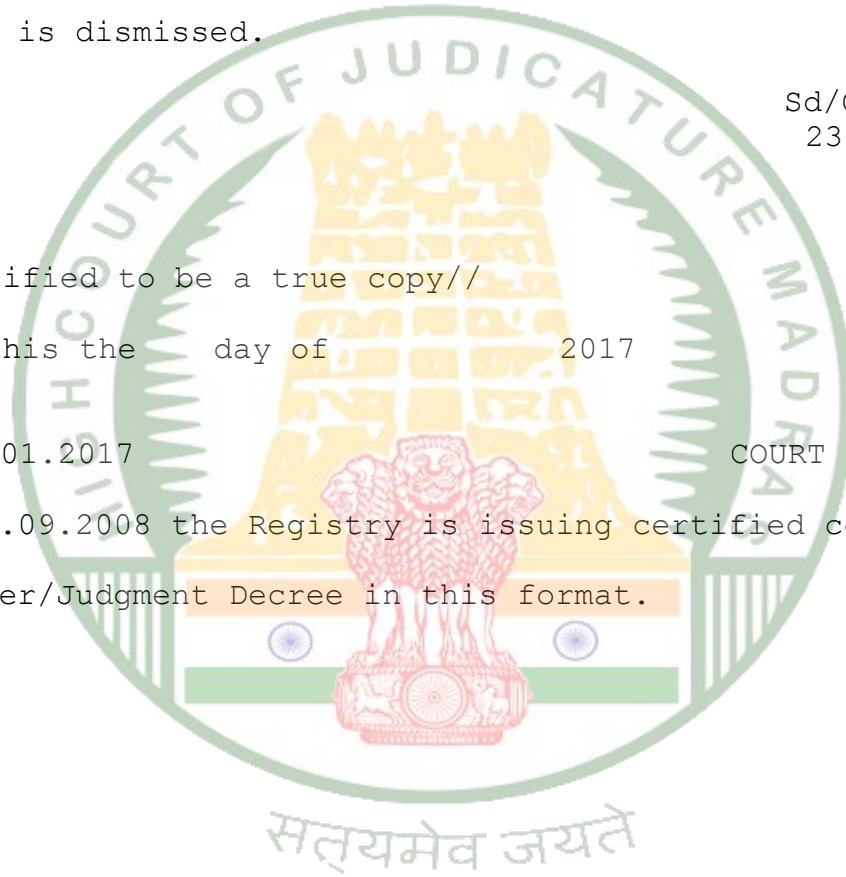
//Certified to be a true copy//

Dated this the day of 2017

R.s/30.01.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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