

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2015

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

O.S.A.Nos.126 and 127 of 2015

1. R.Padmanaban (Karuneegar)
2.K.Saravana Kumar (Karuneegar) .. Appellants (in both O.S.A.)

versus

1.Chennai Mahana Karuneegar Sangam
represented by its General Secretary S.Sundaramoorthi
having its office at No.2, Main Road,
Dr.Subbarayan Nagar, Kodambakkam, Chennai 600 024.

2.K.Rajagopal
3.M.Gopalakrishnan
4.T.Rajarajan
5.P.Nijanthan
6.S.Swaminathan
7.T.Rajaguru
8.R.Vishwanathan
9.P.Shobana
10.R.Maheswari
11.R.Baskar .. Respondents(in both O.S.A.)

Appeals filed under Order 36 Rule VII of Original Side Rules read with Clause 15 of the Letters Patent Act, against the fair and decretal order dated 09.09.2014 passed in A.Nos.2717, 2718, 2720, 2721, 2722, 3712 and 3713 of 2014 in C.S.No.246 of 1930, on the file of this Court.

For Appellant .. Mr.T.V.Lakshmanan

J U D G M E N T

(Judgement of the Court was delivered by The Hon'ble Chief Justice)

The impugned order dated 09.09.2014, seeking to fill a vacancy which has arisen for a Member of the Trust which is rotatable after three years has given rise to the filing of the present appeals.

2. At the stage when the application was taken up to fill the vacancy, after hearing the learned counsel for the parties, the learned Single Judge opined that the task of selecting one of the applicants to be appointed as a Trustee be entrusted to a senior counsel, who would in turn as per the scheme decree/trust deed, verify the testimonies, conduct interview and give reasonable opportunity to all the applicants. There were seven applicants before the Court.

3. A reading of the said order shows that it partakes the character really of a consent order, and naturally that order was accepted by one and all.

4. It may also be noticed that simultaneously one of the guidelines given by the court was towards the general mandate of gender justice by stating that if there is a woman candidate, who is more competent to other candidates or equally competent to any top ranking male candidate, then only such a preference will be given to her.

5. The learned Senior Counsel interviewed seven candidates and submitted a report on the basis of which, he proposed the name of one woman candidate, Ms.Shobana to be appointed as a Honourary Trustee.

6.The appellant claims to be one of the proposers of the other candidates and in that capacity, seeks to raise the issue in these appeals. Interestingly, neither any woman candidate nor any other candidate raised any grievance against the appointment made. On this ground alone, the appellant is liable to be non-suited in the present appeals, but since we have heard the submissions of the learned counsel, we may note that the real grievance of the appellant is that the principles of natural justice are applicable even in these proceedings (Shamsudeen v. The District Judge, West Thanjavur reported in 1990 (2) MLJ 461) required the learned Single Judge to look into the whole process of selection, invite objections and only then carry out the selection.

7. The aforesaid plea is without any basis as what the learned Single Judge has done is that on perusal of the report of the learned counsel, finding merit in the recommendation, has given his imprimatur to the selection of Ms.Shobana and we find nothing wrong with the same.

8.We do believe that this is a proxy litigation, since the proposer has come forward to canvass the case for some candidate who possibly did not want to come forward before the Court. In these days, when the courts are burdened with litigations, such frivolous appeal amounts to gross wastage of the time of the court and thus, even if the respondents are not present, the appellant must be made to pay for the wastage of the time of the Court.

9. We thus dismiss the appeals with a cost of Rs.10,000/- to be deposited with the Mediation Centre, High Court Campus, Madras within a period of 15 days from today.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

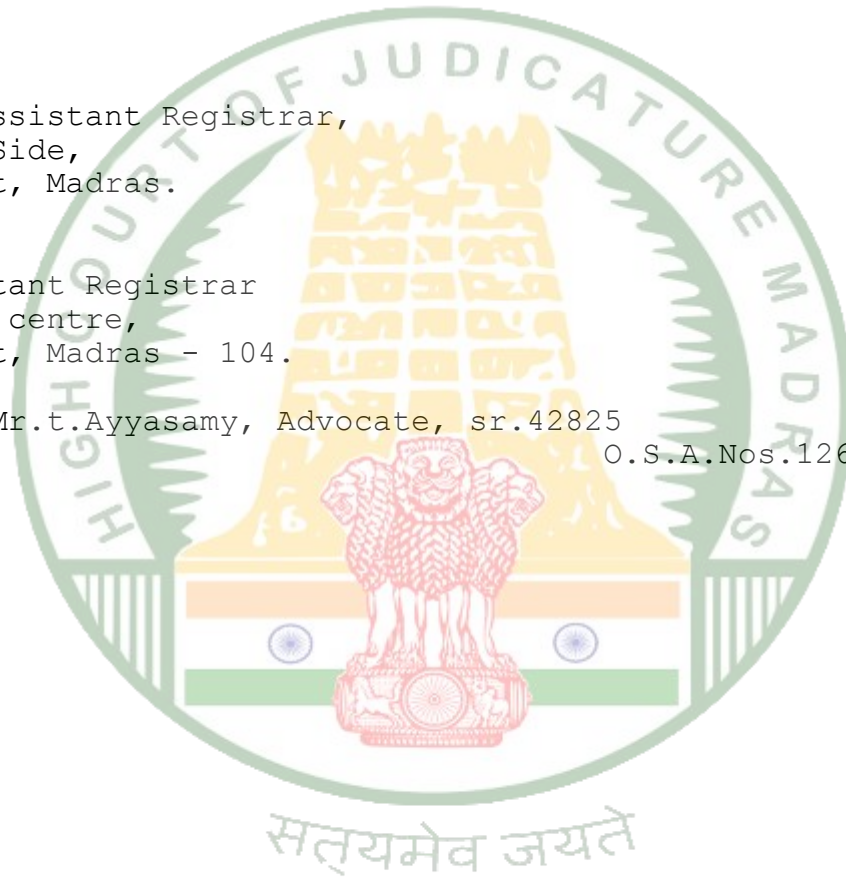
ksr
To
The Sub-Assistant Registrar,
Original Side,
High Court, Madras.

Copy to:
The Assistant Registrar
Mediation centre,
High Court, Madras - 104.

+2 cc to Mr.t.Ayyasamy, Advocate, sr.42825

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