

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL REVISION PETITION No.2303 OF 2005

Dated 12-6-2015

Between:

S.A.Sports Amberpet Cricket Club, represented by
its Secretary, Ravinder Singh.

..Petitioner.

And:

The Hyderabad Cricket Association, represented by
its Secretary, Gymkhana Grounds, Opp.Lamba Theatre,
Secunderabad and others.

..Respondents.

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ORDER:

This revision is against order dated 11-3-2005 in O.P.No.1154 of 2000 on the file of Chief Judge, City Civil Court, Hyderabad filed under Section 11 of A.P. (Telangana Area) Societies Registration Act, 1350 Fasli (Act 1 of 1350 F).

Brief facts leading to the revision are as follows:

Revision petitioner herein has filed O.P.No.1154 of 2000 to declare the action of first respondent herein in omitting the name of the revision petitioner from playing in the league matches to be held on 2-7-2000 as illegal, arbitrary and contrary to the rules and regulations of the Association and to prohibit the 2nd respondent from playing any league and other matches conducted by first respondent in the place of revision petitioner club. The said petition was enquired and by order dated 1st May, 2002, Chief Judge, City Civil Court, Hyderabad allowed the petition and granted relief to the petitioner as prayed for. Challenging the same, first respondent herein preferred revision and a 3rd party also preferred revision

and both the revisions were ordered by setting aside the orders of the Chief Judge, City Civil Court dated 5-12-2003 and remitted back the matter for fresh consideration by directing to implead petitioner in revision Petition No.829 of 2003 as party to O.P. After such remand, Chief Judge, City Civil Court, on a reappraisal of entire material dismissed the petition by order dated 11.3.2005 and aggrieved by the same, present revision is preferred.

Heard both sides.

Advocate for revision petitioner submitted that after remand, R.3 was impleaded to the main petition and the counter filed by R.3 is identical to the counter of R.1 and no separate plea was taken. He further submitted that in the first order, learned Chief Judge, has elaborately discussed each and every aspect and negatived objections taken on behalf of respondent herein and after remand except impleading of 3rd respondent, there is no other change but Chief Judge mainly focused on maintainability of the petition which aspect was raised only at the time of arguments. He further submitted that the lower court dismissed the application on the ground that the society of the petitioner is not a registered one. He further submitted that at the time of filing petition, petitioner society was not registered, but subsequently, it was registered and that aspect was not considered by the trial court. He further submitted that registration of the society is not the criteria even as per the first respondent, therefore petitioner can maintain application. He further submitted that Honourable Supreme Court held that

non-registration was a curable defect and as the petitioner society was subsequently registered, dismissal of application on the ground of non-registration is not correct.

On the other hand, advocate for 1st respondent

submitted that first relief claimed became redundant as it pertains to the year 2000. He further submitted that the very same Supreme Court decision was cited before lower court, and the trial court has not accepted the contention in view of the fact that, observation of the Supreme Court is in respect of Partnership Act but not in respect of Societies Act. Trial court was right in negating the contention of revision petitioner and there are no grounds to interfere with the findings of the trial court.

Now the point that would arise for my consideration in this revision is whether the order of the court below is legal, correct and proper?

POINT:

The main ground on which trial court dismissed application is about maintainability. Admittedly, as on the date of filing of the petition, the petitioner society was not a registered one and it got registered only during course of enquiry which is evident from Ex.A.23. As seen from the material, except complying with the registration, no separate bye-laws are framed and no Body is constituted either General Body or Executive Committee for administration of Society.

Here petitioner having invoked special jurisdiction by exercising the provisions of Societies Act, it shall follow the said provisions. To invoke those provisions, it is mandatory that society must be a registered one. Now the arguments of advocate for revision petitioner is that this can be treated as curable defect as the society is subsequently registered that has to be considered. For that, he placed reliance on two decisions of Honourable Supreme Court in *M/s.RAPTAKOS BRETT AND CO., LTD. v. GANESH PROPERTY* (^[1]) and *M/s. HALDIRAM BHUJIAWALA AND ANOTHER v. M/s. ANAND KUMAR*

DEEPAK KUMAR AND ANOTHER (^[2]) where under it was held that non-registration was a curable defect and subsequent registration has to be deemed that the defect is cured. But these decisions are in respect of partnership Act.

This court in *HYDERABAD CRICKET ASSOCIATION, SECUNDERABAD Vs. CAMBRIDGE CRICKET CLUB* (^[3]) wherein certain unregistered clubs filed petition against first respondent herein in connection of elections to be held for the first respondent, this court held that unregistered societies being association of individuals have no existence in the eye of law and therefore, not capable of suing or being sued. In that case, this court extracted the statement of Honorable Chief Justice Bhagwati in case of *SATYAVART SIDHANTALANKAR V. ARYA SAMAJ, BOMBAY* wherein it held that an unregistered society has no right to file a petition by drawing distinction between the society by an association of an individual and corporation and a partnership established.

As rightly pointed out by advocate for respondents, principle laid down by the Honourable Supreme Court in the above referred two decisions is only in respect of Partnership Act and this can not be applied to the petition filed under the provisions of Societies Act, particularly, when this court by drawing a distinction between these two held that the petition by unregistered society is not maintainable. Learned trial judge has elaborately discussed and considered each and every aspect and rightly applied law and I do not find any illegality or wrong exercise of jurisdiction.

One of the contentions of the advocate for revision petitioner is that the petitioner being member of first respondent can maintain this application but the same

cannot be accepted because the petitioner herein has not filed O.P.No.1154 of 2000 in the capacity of member of first respondent to treat the petition that it is a dispute between member and society. Here the petitioner filed petition representing S.A. Sports, Amberpet in the capacity of secretary of it, therefore, the contention of advocate for revision petitioner cannot be sustained.

Here as the main dispute is with regard to identity of the revision petitioner and its registration, I feel that trial court has rightly dismissed the application and I do not find any ground to interfere with the same.

From the record, in Miscellaneous Petitions Nos.3089 and 3090 of 2005, at the time of hearing, first respondent herein appears to have represented that even petitioner is not recognized as registered agency, there is no impediment for participation provided it complies with the relevant rules and conditions. Considering the same, I feel it appropriate to observe that first respondent may consider the participation of talented players from the petitioner club provided it complies the relevant rules and conditions of first respondent.

Revision is dismissed with the above observation. No costs.

As a sequel to the disposal of this revision, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE

S.RAVI KUMAR

Dated 12-6-2015.

Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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Dvs

[\[1\]](#) AIR 1998 SC 3085
[\[2\]](#) AIR 2000 SC 1287
[\[3\]](#) 2002-ALT-6-268, 2002-ALD-5-818,
2002(TLS)417757 (C.R.P.No.2175 of 2002
SEPTEMBER, 3, 2002)