

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

CRP.Nos.4591 of 2014 and 3514 of 2015

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COMMON ORDER:

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Since the same order passed in S.R.O.P.No.2 of 2007 on

18-11-2014 by the I Additional District Judge, Ongole is questioned in both the Revisions, they are being disposed of by this common order.

2. For the sake of convenience, the parties will be referred to hereinafter as per their array in C.R.P.No.4591 of 2014.

3. The 1st respondent in both the Revisions is a Society registered under the Societies Registration Act, 1860. According to the bye-laws of the Society, there is a general body as well as governing body.

4. Petitioner Nos.1 to 4 in C.R.P.No.4591 of 2014, who are respondent Nos.4 to 7 in C.R.P.No.3514 of 2015 are members of this Society. In 1998, it started running an Engineering College by name M/s.Satyanarayana Engineering College. Later it was renamed as M/s. Rao and Naidu Engineering College

5. Petitioner Nos.1 to 3 are brothers. The 4th

petitioner is wife of 1st petitioner. 6th respondent is wife of 2nd petitioner and 7th respondent is wife of 3rd petitioner.

6. On 17-07-2006, the 4th petitioner and respondent Nos.5 to 7 were admitted as members of the Society by a resolution passed by the Governing Body. By the said date, the General Body consisted of 11 members and 6 members attending the meeting including one R.Jayaram. Thus, on account of admission of 4th petitioner and respondent Nos.5 to 7, the total members of the Governing Body as well as General body increased to 15.

7. On 07-08-2006, an Extraordinary General Body Meeting was held and some bye-laws governing the conduct of Governing Body Meetings, General Body Meetings and Extraordinary General Body Meetings were passed. In this meeting, the 1st petitioner signed as a General Power of Attorney Holder of respondent Nos.2 and 3.

8. On 18-08-2006, another General Body Meeting was held in which the Governing Body of the Society was reconstituted and 3rd respondent, who was the Secretary and Correspondent of the Society was replaced by 2nd petitioner and the 2nd respondent, who was a Treasurer of the Society, was replaced by 3rd petitioner.

9. Challenging the resolutions dt.17-07-2006, 07-08-2006 and 18-08-2006, respondent Nos.1 to 3 filed the S.R.O.P. No.2 of 2007 under Section 23 of the A.P. Societies Registration Act, 2001 to declare that 3rd respondent was the Secretary and Correspondent of the 1st respondent Society (for short 'the Society') and 2nd respondent was the Treasurer of the said Society. Respondent Nos.1 to 3 also sought an injunction restraining petitioner Nos.2 and 3 from in any way interfering with the rights and powers of respondent Nos.2 and 3 and also for costs.

10. Respondent Nos.1 to 3. contended in the O.P that on 18-09-2000, respondent Nos.2 and 3, who were at that time Treasurer and Secretary and Correspondent of the Society, had executed a General Power of Attorney in favor of 1st petitioner authorizing him to execute loan documents and connected papers in connection with grant of term loan to the Society by the 4th respondent Bank since they were at that time abroad. Respondent Nos.1 to 3 contended that taking advantage of the G.P.A. given for this limited purpose, the 1st petitioner convened the General Body Meeting of the Society on 17-07-2006 and inducted the 4th petitioner, 5th respondent (who is alleged to be close friend of 1st

petitioner), 6th respondent and

7th respondent as Governing Body members and that 1st respondent came to know of this event through a Caveat dt.04-12-2006. It was contended that the minutes of the meeting of 17-07-2006 of the Governing Body were not communicated to the Registrar of Societies by petitioners. It was contended that thereafter the petitioners conducted (i) an Emergency/Extraordinary General Body Meeting on 07-08-2006 regarding the conduct of meetings of the General Body and Governing Body as well as Extraordinary General Body of the Society and (ii) on 18-08-2006 another Emergency/Extraordinary General Body Meeting changing the composition of the Governing Body removing 3rd respondent as Secretary and Correspondent of the Society and 2nd respondent as Treasurer on the ground that they are Non-Resident Indians, that they were not able to provide services to the Society and appointed the 2nd petitioner as the Secretary and Correspondent and 3rd petitioner as the Treasurer in their place. Respondent Nos.1 to 3 contended that that no notice was issued to respondent Nos.2 and 3 for conducting the meeting on 18-08-2006. They contended that 3rd respondent, in his capacity as Secretary and Correspondent, also conducted a Governing Body meeting on 20-12-2006 and a General Body Meeting on 21-12-2006

apart from Emergency/Extraordinary General Body Meeting on 28-10-2006, but petitioner Nos.1 to 3, having received notices about the said meetings, deliberately abstained from attending them. They alleged that in the meetings held on 20-12-2006, 21-12-2006 and 28-12-2006 certain resolutions had been adopted and that the General Body was reconstituted on the basis of a relinquishment/undertaking letter

dt.06-08-2005 given by Sri R.Jayaram, the Governing Body member. Respondent Nos.1 to 3 contended that 1st petitioner was not entitled to conduct the General Body or Governing Body Meetings much less adopt the impugned resolutions dt.17-07-2006, 07-08-2006 and

18-08-2006 and allege that 1st petitioner had misused the G.P.A. given by 3rd respondent and 2nd respondent for the purpose of execution of loan documents for construction purpose. They alleged that there was no quorum for these meetings and Sri R.Jayaram, had participated in these meetings even though he had relinquished his membership of the Society on 06-8-2005. They contended that respondent Nos.2 and 3 had advanced huge amounts for starting, developing and maintaining the Society and the institution Rao & Naidu Engineering College, and the 1st petitioner, with the connivance and support of other petitioners who are his own family members and associates, had collected and

was collecting fees and realizing other funds and misappropriated amounts to the tune of more than Rs.2 to 3 crores. They alleged that 1st petitioner did not render any account for the income and expenditure of the Society and Rao and Naidu Engineering College, and that 1st petitioner had no right to call a meeting or conduct a meeting much less remove respondent Nos.2 and 3 from their posts as Secretary and Correspondent and Treasurer. They also contended that the induction of 4th petitioner and respondent Nos.5 to 7 in the meeting held on 17-07-2006 has to be declared as illegal and unsustainable in law.

11. Counter affidavit was filed to this O.P. by petitioners herein opposing grant of any relief to respondent Nos.1 to 3. They contended that resolutions had been validly passed and that

1st petitioner was entitled to act as a G.P.A. Holder of respondent Nos.2 and 3, that such agency not only expressed but also implied and since 3rd respondent himself described the 1st petitioner as his G.P.A. agent in several resolutions authorizing 1st petitioner to do various acts on the basis of which 1st petitioner performed several acts, it has to be held that G.P.A. applied even for ancillary purposes other than principal purpose of obtaining a loan from 4th respondent Bank. The 1st petitioner contended

that the Power of Attorney was executed and accepted by the Society members only to accommodate respondent Nos.2 and 3 because 3rd respondent was employed in U.S.A. and wanted to direct the activities of the Society by a remote control. In order to not to hurt his feelings, the members accepted the same in the interest of the Society. He alleged that 1st petitioner was forced to perform the functions of both President and Secretary unfairly and this cannot be allowed to go on permanently since certain statutory authorities were objecting to this orally, and with the consent of 3rd respondent only, he was relieved of the office of the Secretary. Likewise, with the prior consent of 2nd respondent only, she was relieved of the office of the Treasurer. It was also contended that R.Jayaram was treated as a member both by the petitioners as well as respondents and 3rd respondent had also given a notice to the said R.Jayaram to attend the meetings of the Society as a member. They alleged that the relinquishment deed allegedly given by R.Jayaram was not acted upon and it was torn in the presence of respondent Nos.2 and 3 and elders on the ground that it amounts to trafficking of membership, which was impermissible. The petitioners contended that respondent Nos.1 to 3 were estopped by their conduct in asking R.Jayaram to attend the meetings, and merely because they have custody of photocopy of the

undertaking of R.Jayaram, which was not acted upon, they cannot press it into service. Petitioner Nos.1 to 4 alleged that new members had to be inducted because the Society was in dire need of funds as constructions were going on and this *bona fide* act was supported 2/3rd of the members. The petitioner denied the allegation of misuse of funds of the Society and pointed out that every year the accounts of the Society were audited, and audit reports and resolutions of the General Body bear testimony. They contended that there is no truth in the allegation of misappropriation. It was contended that respondent Nos.2 and 3 were given notice of meeting and they had signed in minutes book and accepted and acquiesced in the follow through action and it was not permissible for respondent Nos.2 and 3 to deny the same. The petitioners further contend that respondent Nos.2 and 3, as well as their children were residents of U.S.A., and getting them to attend the meetings was expensive since 3rd respondent was an employee of General Motors at Detroit in U.S.A., and by virtue of his employment in that country, he could not render any service to the Society. They alleged that it was because of this, respondent Nos.2 and 3 were relieved from their office but not on account of any ulterior motive.

12. Before the I Additional District Judge, Ongole, respondent Nos.1 to 3 examined P.Ws.1 to 6 and marked

Exs.A-1 to A-33 while petitioners examined R.Ws.1 to 4 and marked Exs.B-1 to B-25. Exs.X-1 to X-9 were also marked.

13. The said O.P. was initially allowed on 17-08-2009 setting aside the resolutions dt.17-07-2006, 07-08-2006 and 18-08-2006 and by declaring that respondent Nos.2 and 3 continued as members of the Governing Body as Treasurer and Secretary and Correspondent respectively and not as mere members of the General Body and a consequential injunction was also granted as prayed for.

14. This was questioned by petitioners in C.R.P.No.4431 of 2009 and by the respondent Nos.5 to 7 in C.R.P.No.4510 of 2009. One of the contentions raised in the said Revisions was that respondent Nos.5 to 7 were necessary parties to the O.P. and that their non-impleadment violates the principles of natural justice.

15. By order dt.19-07-2010, this Court allowed the said Revisions and set aside the order dt.17-08-2009 in S.R.O.P.No.2 of 2007 and remitted the matter back to the trial court directing respondent Nos.1 to 3 to implead respondent Nos.5 to 7, who are petitioners in C.R.P.No.4510 of 2009, within two weeks from the date of receipt of its order and then decide the matter.

16. Subsequent thereto, I.A.No.2125 of 2011 was filed

by respondent Nos.1 to 3 to implead respondent Nos.6 to 8 and the said I.A. was allowed on 07-03-2012. Thereafter the O.P. was heard and a fresh order was passed on 18-11-2014.

17. By order dt.18-11-2014, the court below again allowed the O.P. and set aside the resolutions dt.17-07-2006, 07-08-2006 and

18-08-2006 and declared that 3rd respondent was the Secretary and Correspondent of the 1st respondent-Society and that

2nd respondent was his Treasurer. It also granted a consequential permanent injunction restraining petitioner Nos.2 and 3 from interfering in any way with the rights and powers of respondent Nos.2 and 3, but it made clear that any *bona fide* transactions which occurred during the period of maintenance of the educational institution either by petitioners or respondents stands good and should not be disturbed.

18. The Court below held that Ex.A-4 G.P.A. was given to

1st petitioner by 3rd respondent only for obtaining a loan, that he was not authorized to remove respondent Nos.2 and 3 from the Governing Body and that the 1st petitioner had acted against the interests of respondent Nos.2 and 3. It held that a G.P.A. Holder cannot act against the

interest of the principal and the action of 1st petitioner in convening a meeting without issuing any notice to respondent Nos.2 and 3 and removing them from the Governing Body on the ground that they are residents of U.S.A., cannot be sustained. He pointed out that even as on the date of establishment of the Society, respondent Nos.2 and 3 were working in the U.S.A. and as per the Memorandum of Association (Ex.A-24), there was no bar for N.R.Is. to be members of 1st respondent-Society. It held that admittedly respondent Nos.2 and 3 had invested large amounts in the Society to fulfill the objects shown in Ex.A-24 and therefore the 1st petitioner had no right to remove respondent Nos.2 and 3 as Secretary and Correspondent, and Treasurer of the Society taking advantage of Ex.A-14 G.P.A. in his favour. It also held that 1st petitioner had not issued any notice to respondent Nos.2 and 3 before changing the constitution of the Governing Body, and there was no correspondence between

1st petitioner and respondent Nos.2 and 3 at any point of time wherein the 1st petitioner had expressed his intention to convene meetings on the ground that respondent Nos.2 and 3 were not attending because of their jobs in U.S.A. It further held that inducting 4th petitioner and respondent Nos.5 to 7 as members of the General Body

of the Society as per resolutions dt.17-07-2006 or removal of respondent Nos.2 and 3 from the Governing Body was against the objectives laid down in Exs.A-24. It therefore concluded that the said resolutions were not binding on respondent Nos.2 and 3, that they were passed against the interests of respondent Nos.2 and 3, and the 1st petitioner cannot convene the said meeting against the interests of respondent Nos.2 and 3.

19. Challenging the said order, C.R.P.No.4591 of 2014 was filed by petitioners.

20. Respondent Nos.5 to 7 in C.R.P.No.4591 of 2014 also filed C.R.P.No.3514 of 2015 challenging the order dt.18-11-2014 in S.R.O.P.No.2 of 2007 of the I Additional District Judge, Ongole in so far as the said Court had also set aside their induction as members of the Society vide resolution dt.17-07-2006.

21. Heard Sri P.Raja Sekhar, learned counsel for petitioners in C.R.P.No.4591 of 2014, who are respondent Nos.4 to 7 in C.R.P.No.3514 of 2015, Sri Y.V.Ravi Prasad, learned Senior Counsel for Sri S.Venkateswarlu, learned counsel for respondent Nos.1 to 3 in C.R.P.No.4591 of 2014 and in C.R.P.No.3514 of 2015, and Sri Y.Chandra Sekhar, learned counsel appearing for respondent Nos.5 to 7 in C.R.P.No.4591 of 2014, who are petitioners in C.R.P.No.3514 of 2015.

22. On 24-12-2014, in C.R.P.No.4591 of 2014, this Court on a concession by the learned Senior counsel appearing for petitioners therein as well as Counsel for respondent Nos.1 to 3 directed 3rd respondent to take steps to conduct elections to the 1st respondent Society *without taking into account the resolutions set aside by the* / Additional District Judge, Ongole in the impugned order and permitted the existing members *excluding the members inducted* under the said resolutions to participate in the elections to be conducted in terms of the Society bye-laws to elect a new Management. It directed that the elections should be held on or before 31-01-2015 and pending elections to the new Managing Committee, the existing Managing Committee continuing as on that day shall continue.

23. It is not disputed that pursuant to this order, there was in fact an election held. However, as can be seen from the said order, this Court had directed that in the said election, the resolution dt.17-07-2006 inducting the 4th petitioner and respondent Nos.5 to 7 as members of the Governing Body and General Body of 1st respondent Society should not be taken into consideration.

24. Since the said order was passed by this Court without hearing the 4th petitioner and respondent Nos.5 to

7, any election pursuant to the said order has to be treated as subject to the result of these Revisions. If this Court upholds the resolution dt.17-07-2006 where under 4th petitioner and respondent Nos.5 to 7 were inducted as members of the Governing Body and General Body, then the said election, which was held excluding the said persons from voting, cannot be upheld.

25. It is also not in dispute that R.Jayaram had filed I.A.No.2096 of 2012 under Order I Rule 10 C.P.C. to get impleaded therein when the O.P. was pending before the Court below. The said I.A. was dismissed on 25-02-2013 holding that he had ceased to be a member. This was questioned in C.R.P.No.1853 of 2013, and the said Revision was dismissed on 14-02-2015. In the Revision, however, this Court had observed that the scope of the O.P. was confined only to proceedings carried out by petitioner Nos.1 to 3 with regard to the status of respondent Nos.2 and 3 as Secretary and Correspondent and Treasurer of the Society and neither the affairs nor the respective rights and liabilities of other members of the Society were the subject matter of the O.P. This Court held that Sri R.Jayaram had not pleaded that he was a party to the proceedings impugned in the O.P. and had filed the implead application only on the ground that he had 1½ share in the properties of the 1st respondent

Society and that respondent Nos.2 and 3 in collusion with others were trying to transfer the Society to third parties. This Court held that in the said O.P. the interest of Sri R.Jayaram cannot be protected and even if the O.P. is allowed *in toto*, there can be no adjudication of the rights of Sri R.Jayaram vis-à-vis Society's properties and that the interests of Sri R.Jayaram are wholly unrelated to the subject matter of the O.P. It therefore held that he cannot be either necessary or proper party to the O.P. It left it open to Sri R.Jayaram to take separate substantive proceedings to protect his purported interests and opined that he cannot intervene in this dispute.

26. I shall now deal with the substantive points urged before me in these Revisions.

Re: Resolution dt.17.07.2006

27. As stated above, pursuant to this resolution dt.17-07-2006, the 4th petitioner and respondent Nos.5 to 7 were inducted as members of the general body of the 1st respondent-Society.

28. Admittedly, the respondent Nos.1 to 3 had impleaded respondent Nos.5 to 7 by filing I.A.No.2125 of 2011 in the O.P. which was allowed on 07-03-2012.

29. The counsel for respondent Nos.5 to 7 contended that provisions of the Limitation Act, 1963 apply to proceedings under the Act; under Section 21 (1) of the

said Act, the O.P. as against them shall be deemed to have been instituted only when they were impleaded; the cause of action accrued to respondent Nos.1 to 3 to challenge the induction of respondent Nos.5 to 7 and 4th petitioner on 17.07.2006 itself; as per Art.137 of the schedule to the Act, the applicable period of limitation is 3 years from 17-07-2006; therefore, by the date respondent Nos.5 to 7 had been impleaded, the challenge to their induction under the resolution dt.17-07-2006 stood barred by time since it is beyond three years; and therefore, the resolution dt.17-07-2006 insofar as respondent Nos.5 to 7 are concerned cannot be set aside.

30. Although counsel for the respondent Nos.1 to 3 sought to contend that the provisions of the Limitation Act, 1963 would not apply since the proceeding is an O.P. under the A.P.Societies Registration Act, 2001 and is not a suit, I am unable to agree with the said contention in view of Section 29 (2) of the Limitation Act, 1963. The said provision states :

“Section 29 (2)-- Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to

which, they are not expressly excluded by such special or local law.”

31. Thus, it provides that unless expressly excluded by any special or local law, the provisions of the Limitation Act, 1963 will apply to any application under the Special or local law.

32. In **Kerala SEB v. T.P. Kunhaliamma**^[1], the Supreme Court held that to proceedings under Section 10 and 16 (5) of the Indian Telegraph Act, 1885 filed before a District Judge, provisions of the Limitation Act, 1963 (Article 137) would apply, since the District Judge while dealing with the issue of payment of compensation under Section 10 of the said Act, acts judicially as a court.

33. This principle was reiterated in **Mukri Gopalan v. Cheppilat Puthanpurayil Aboobacker**^[2]. In that case, the Supreme Court held that the provisions of the Limitation Act would also apply to appeals filed before the Appellate Authority (also a District Judge) under Section 13 of the Kerala Buildings (Lease and Rent Control) Act, 1965 in view of Section 29(2) of the Limitation Act. Although in the said decision it was also laid down that the provisions of the Limitation Act, 1963 would not apply to Tribunals, this portion of the judgment in **Mukri Gopalan** (2 supra) was not held to be good law by the Supreme Court in **M.P. Steel Corporation v. Commissioner of**

Central Excise^[3] .

34. However, since the O.P. is filed under Section 23 of the Societies Registration Act, 2001 before a District Court, there can be no doubt that the provisions of the Limitation Act, 1963 would be applicable in view of Section 29(2) of the Limitation Act, 1963.

35. Consequently, Article 137 of the Limitation Act, 1963 is attracted insofar as the challenge to the induction on 17.07.2006 of respondent Nos.5 to 7 is concerned. Since they have only been impleaded on 07-03-2012, and under Section 21 (1) of the Limitation Act, 1963 the O.P. as against them is deemed to have been instituted on that day only, the claim of respondent Nos. 1 to 3 regarding induction of respondent Nos.5 to 7 as per the Resolution dt.17-07-2006 is thus clearly barred by limitation.

36. Therefore, I am of the opinion that the Court below was not correct in setting aside the resolution dt.17-07-2006 *in toto* and that as regards induction of respondent Nos.5 to 7, the said resolution could not have been set aside.

37. However, there is no such bar of limitation applicable to the

4th petitioner who was impleaded originally in the O.P. filed in 2007 itself and as far as she is concerned, the

challenge of respondent Nos.1 to 3 to the resolution dt.17-07-2006 would have to be considered.

38. Admittedly, 4th petitioner is none other than the wife of

1st petitioner. It is not in dispute that respondent Nos.2 and 3 did not attend in person the governing body meeting held on 17-07-2006 and the 1st petitioner claiming to be their G.P.A. holder represented them and voted on their behalf. It is also not disputed that the G.P.A.

Ex.A-14 had been given by respondent Nos.2 and 3 in connection with obtaining loan from 4th respondent Bank, and the 1st petitioner as R.W.1 had admitted that there is nothing in writing to show that respondent Nos.2 and 3 had given authority in his favour to act on their behalf.

Therefore, the 1st petitioner was not entitled to act as agent of respondent Nos.2 and 3 and vote on their behalf in the said meeting.

39. It is not disputed that the bye-laws of the 1st respondent-Society contemplate issuance of at least 7 days' notice for conducting meeting of the governing body. It is not denied by the 1st petitioner that he did not issue any notices to respondent Nos.2 and 3 as regards the meeting of 17-07-2006.

40. Therefore, I am of the opinion that the District Court did not commit any error of jurisdiction in setting aside the induction of the 4th petitioner in the meeting held on 17-07-2006.

41. Having regard to these findings since respondent Nos.5 to 7's induction as members of the general body of the 1st respondent-Society cannot be set aside, they are entitled to vote in any election to the governing body/managing committee of the Society.

Re : Resolution dt.07-08-2006

42. Coming to the 2nd resolution impugned in the O.P. dt.07-08-2006 is concerned, there is no pleading in the O.P. on what ground it is challenged except a plea in para (p) that R. Jayaram, who relinquished his membership was also shown as part of the quorum along with respondent Nos.2 and 3.

43. There is no provision in the bye-laws providing for relinquishment of membership by a member although the bye-laws contemplate termination of membership by resignation, adjudication as insolvent, insanity and absence at two consecutive general body meetings. Therefore, it cannot be said that R. Jayaram ceased to be a member by executing Ex.A-23 relinquishment deed on 06-08-2005. The minutes book of the 1st respondent-

Society indicates that the said R. Jayaram was participating in the general body meetings, governing body meetings and extra-ordinary meetings of the general body even after he allegedly executed Ex.A-23. Therefore, I find substance in the contention of petitioners that the said relinquishment letter was not acted upon. His presence at the extraordinary meeting held on 13-02-2006 was not disputed by 2nd petitioner although she participated in the said meeting in person. He also participated in the general body meeting held on 06-08-2005 and the 3rd respondent who participated in the said meeting did not object to his participation. This conduct on the part of respondent Nos.2 and 3 amounts to acceptance on their part that R. Jayaram did not cease to be a member of the 1st respondent-Society. They are estopped from contending that he ceased to be a member of the Society and so not entitled to participate in the meetings held on 17-07-2006, 09-08-2006 and 18-08-2006.

44. Further, in C.R.P.No.1853 of 2013, this Court while upholding the order dt.25-02-2013 in I.A.No.2906 of 2012 dismissing

R. Jayaram's implead application in the O.P. did not hold that he ceased to be a member of the Society. In fact, in the impugned order there is no discussion about this resolution at all except a sentence to the effect that it is

not binding on respondent Nos.2 and 3 since it is against their interest.

45. In this view of the matter, I am of the opinion that the Court below was not correct in setting aside the Resolution dt.07-08-2006 amending the bye-laws of the Society.

Re : Resolution dt.18-08-2006

46. Coming to the resolution dt.18-08-2006 whereunder the respondent Nos.2 and 3 were removed as treasurer and secretary and correspondent of the Society is concerned, it is specifically pleaded by petitioner Nos.1 to 4 in their counter that they were removed with their consent only. There is no evidence adduced that the respondent Nos.2 and 3 had given consent for their removal from the above posts. The plea of implied agency raised by the petitioners cannot be countenanced when they have pleaded express consent.

As stated supra, the 1st petitioner was not entitled to invoke the G.P.A. issued by respondent Nos.2 and 3 authorizing him as their agent to take a bank loan, to remove them from the above posts.

47. Therefore, I do not find any error of jurisdiction in the finding of the court below setting aside the resolution dt.18-08-2006 removing the respondent Nos.2 and 3 as

treasurer, secretary and correspondent of the 1st respondent-Society respectively.

Election conducted pursuant to order dt.24-12-2014 set aside

48. No doubt, in the order dt.24-12-2014 passed by this Court, directing the holding of elections to the managing committee of the Society, this Court specifically directed that the Resolution dt.17-07-2006 which was set aside by the trial Court, cannot be taken into consideration. Thus, the respondent Nos.5 to 7 were not allowed to participate in the voting and elect the new managing committee.

49. Since the said order dt.24-12-2014 was passed as an interim arrangement pending disposal of the Revision as is evidenced from the words "*in view of the above, **for the present**, the following order is passed*", and the said order was passed before respondent Nos.5 to 7 had even been served notices in the Revision C.R.P No.4591 of 2014, and since they were not heard before passing of this order, the said order does not bind them.

50. I have already held that the induction of respondent Nos.5 to 7 as members of the general body of the Society under the resolution dt.07.07.2006 is not liable to be questioned.

51. I therefore find substance in the contention of

respondent Nos. 5 to 7 that the election held pursuant to the order dt.24-12-2014 excluding them from voting therein requires to be set aside, and so the election, if any, held to the managing committee/governing body of the 1st respondent-Society is set aside.

52. Since admittedly the term of the managing committee/ governing body has expired, the 3rd respondent is directed to conduct fresh elections to the managing committee/general body of 1st respondent-Society by.

53. In conclusion :

- (a) Resolution dt.17-07-2006 insofar as induction of respondent Nos.5 to 7 is concerned, is upheld ;
- (b) Resolution dt.17-07-2006 insofar as induction of 4th petitioner is concerned, is set aside ;
- (c) Resolution dt.07-08-2006 is upheld ;
- (d) Resolution dt.18-08-2006 is set aside ;
- (e) R. Jayaram is held to be a member of the general body of the society and cannot be said to have ceased to be a member because he executed Ex.A-23 ;

(f) The election held to the managing committee/governing body pursuant to the order dt.24-12-2014 of this Court in C.R.P.No.4591 of 2014 is set aside, and the said order is vacated ; and

(g) It is directed that the 3rd respondent shall hold fresh election to the governing body/managing committee of the 1st respondent-Society on or before 30-11-2015 since the term of the existing governing body has admittedly expired.

54. Therefore, C.R.P.No.4591 of 2014 is partly allowed and C.R.P.No.3514 of 2015 is allowed. No order as to costs in both the Revisions.

55. Miscellaneous petitions, pending if any in these Revisions, shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 28-10-2015

Vsv/Ndr/*

[\[1\]](#) AIR 1977 SC 282

[\[2\]](#) (1995) 5 SCC 5

[\[3\]](#) (2015) 7 SCC 58