

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE M.M.SUNDRESH

O.S.A.No.37 of 2016

Tim Boyd .. Appellant/10th Defendant

vs

1.Kesiraju Krishna Phani

2.Karri Sita Rama Chandra Rao

3.The Theosophical Society,
A Society registered under the
T.N. Societies Registration Act, 1975,
rep. by its Secretary,
Having its office at the Headquarters
At Adyar, Chennai-600 020.

4.The Indian Section,
The Theosophical Society,
rep. by its General Secretary,
A constituent part of the Theosophical Society,
Adyar, Chennai-600 020.

5.Dr.Chittaranjan Sathapathy,
Secretary,
Member-Election Committee
(Presidential Election 2013-14)
The Theosophical Society,
Adyar, Chennai-600 020.

6.T.S.Jambunathan,
Treasurer,
Member-Election Committee
(Presidential Election 2013-14)
The Theosophical Society,
Adyar, Chennai-600 020.

7.S.Harihara Raghavan,
General Manager, The Theosophical Society,
Member-Election Committee
(Presidential Election 2013-14)
The Theosophical Society,
Adyar, Chennai-600 020.

- 8.S.Sundaram,
The General Secretary, Indian Section,
A constituent part of the Theosophical Society,
Adyar, Chennai-600 020.
- 9.P.K.Mahapatra,
Assistant General Secretary, Indian Section,
A constituent part of the Theosophical Society,
Adyar, Chennai-600 020.
- 10.Karnataka Theosophical Federation of
The Indian Section,
rep. by its Secretary Ms.Parvathamma,
A constituent part of The Theosophical Society,
No.90, Krishnarajendra Road,
Basavangudi,
Bangalore.
- 11.S.M.Umakanth Rao,
Executive Committee Member,
Indian Section,
A constituent part of the Theosophical Society,
Adyar, Chennai-600 020.
- 12.C.V.K.Maithreya
- 13.Manju Sundaram,
Scrutineer, Presidential Election 2014,
Indian Section,
A constituent part of
The Theosophical Society,
Adyar, Chennai-600 020. ... Respondents/Plaintiffs
Defendants 1 to 9, 11 &12

Appeal filed under Order XXXVI, Rule 9 of Original Side Rules read with Clause 15 of Letters Patent against the order made in A.No.317 of 2015 in C.S.No.682 of 2014, dated 22.07.2015.

Application is filed and the Judge's Summons issued under order 14 Rules 8 of the original Side Rules of this court, read with order 7 Rule 11 CPC to reject the plaint filed by the first and second respondents in C.S.682 of 2014 on the file of this court and consequently dismiss the said civil suit against the defendant-10;

Civil Suit No.682 of 2014 is numbered and the plaint is filed under order 4 Rule 1 of the original side Rules of this court, read with order 7 Rule 1 CPC, praying to pass a Judgment and decree against the defendants;

(a) For a declaration to declare that the electdion of the tenth defendant, Viz, Mr.Tim Boyd as elected president of the first defendant - The Theosophical Society for a period of seven years, as per communication dated 27.04.2014 is vitiated by irregularities, mal - practices, null and void and non -est in Law and Set aside the same.

(b) For consequential mandatory in Junction directing the first defendant to recognise and declare the eleventh defendant Mr.C.V.K. Maithreye as duly and Legally elected president of the first defendant - Society, by effecting proper announcement and declarations to the organisation and set up of the first and second defendants or

(C) alternatively and consequently give suitable directin to the first defendent to conduct fresh elections, in the post - nomination stage to the post of president of the first defendant - Society as per the provisions of the Tamil Nadu Societies Registration Act, 1975.

For Appellant .. Mr.Sankara Narayanan
For Respondents .. Ms.Geeta Ramaseshan

JUDGMENT

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

The impugned order dated 22.07.2015 dismissing the application of the appellant under Order 7, Rule 11(a) of Code of Civil Procedure, 1908 records certain findings, over which, we have some reservation on hearing the learned counsel for parties. The fundamental question involved is whether a voter in this election in the absence of any statutory right would have a locus standi to institute a suit. We are of the view that such a matter can be decided by framing a preliminary issue.

2. The learned counsel for parties also agree to the course of action.

3. We, thus, dispose of the appeal in the following agreed terms:-

- (1) The observations made in the impugned order are only for the purposes of deciding the application filed under Order 7, Rule 11(a) of Code of Civil Procedure, 1908 and in view of certain reservation, would not be looked into for any other purposes. The final finding of the rejection of the application is not disturbed.

(2)The parties should complete their pleadings and the issue of locus standi as on the date of filing of the suit should be tried as a preliminary issue, as it does not require any evidence.

(3)In order to facilitate the aforesaid, the written statement will be filed within six weeks. Replication may be filed within three weeks. Parties to file the documents simultaneously.

(4)The suit be listed before the learned Single Judge on 15.06.2016 for framing of issue and the aforesaid issue will be tried as a preliminary issue.

The parties to bear their own costs in this appeal.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

bbr

To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

+1cc to Mr.R.Shankaranarayanan, Advocate, S.R.No.14079
+1cc to Mr.S. Thiruvengataswamy, Advocate, S.R.No.13979

KK(CO)
EU(22/03/2016)

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