

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.3785 of 2016

G.Mariappan

... Petitioner

vs.

1.The Secretary to Government,
Commercial Taxes and Registration
Department,
Secretariat, Chennai-9.

2.The Inspector General of Registration,
Santhome, Chennai-28.

3.The Registrar of Societies,
Chennai (Central),
Chennai-18.

4.The Secretary,
Padi Manoorpettai,
Vayabarigal Sangam,
Padi, Chennai-50.

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to consider the petitioner's representation dated 23.11.2015 seeking to supersede the present committee and appoint a special officer in the fourth respondent society and pass suitable orders thereby protect the interest of the members of the society.

For Petitioner : Mr.V.Chandraprabu

For Respondents : Mr.M.Dig Vijaya Pandian,
Addl. Govt. Pleader,
for R.1 to R.3

ORDER

The petitioner has come up with the present writ petition for the issuance of writ of mandamus, directing the respondents to consider his representation dated 23.11.2015 seeking to supersede the present committee and appoint a special officer in the fourth respondent society and pass suitable orders thereby protect the interest of the members of the society.

2. The case of the petitioner, in brief, is as follows:-

(a) The petitioner is a member of the fourth respondent society. The fourth respondent society was formed in the year 1972 with an object of protecting the interest of the members viz., the merchants in the areas Padi, Manoorpet, Korattur, Mangalapuram, Parttaravakkam and provide various welfare measures to the members of the society. The fourth respondent society was registered under Societies Registration Act, 1860 bearing registration No.113/1972. After passing of the Tamil Nadu Societies Registration Act in the year 1975, the said Act is applicable to the fourth respondent society and the bye-laws and affairs of the society must conform to the provisions of the said Act.

(b) Whenever, the office bearers of the fourth respondent society are questioning about the act in violation of the bye-laws, the committee members of the society used to reply that the bye-laws would be amended. But, no amendment of bye-laws was filed by the third respondent. Further, right from the year 2000 onwards, the present office bearers are running the society according to their own whims and fancies. Thereafter, as per the order of this Court, election was held on 11.1.2004. Further, this Court appointed an Advocate Commissioner as observer to oversee the election and in his presence, election was conducted and office bearers were elected in the General Body Meeting held on 11.1.2004. The present body of the fourth respondent society was running the association right from the year 2000, but, they were officially elected to the office of the association only in the year 2004. The past and present office bearers viz., B.K.Thangam, Past President, R.Thangapandi, Present President, K.R.Palanichamy, Present Secretary, G.Samuel Ponraj, Past Treasurer and P.Selvakumar, Present Treasurer were all hand in glove and were running the fourth respondent society with utter disregard to law and the interest of the members. They have committed various mis-management in the capacity of Officer Bearers. Hence, the petitioner made a representation

dated 16.1.2014 to the first respondent to conduct an enquiry into the affairs of the society and supersede the present committee and to appoint a special officer and to hand over the affairs to him in order to protect the interest of the members of the association. Since the said representation was not considered, the petitioner again sent a representation dated 23.11.2015 to the respondents. But, the said representation was also not considered so far. Hence, the petitioner has come up with the present writ petition seeking a direction to the respondents to consider his representation dated 23.11.2015 and to supersede the present committee and appoint a special officer in the fourth respondent society and pass suitable orders thereby protect the interest of the members of the society.

3. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondents 1 to 3.

4. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the second respondent to consider the representation of the petitioner dated 23.11.2015 and pass appropriate orders, on merits and in accordance with law, by affording an opportunity of personal hearing to the petitioner as well as to the necessary parties, if any, within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any opinion with regard to the claim made by the petitioner and it is for the second respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

To

1.The Secretary to Government,
Commercial Taxes and Registration
Department,
Secretariat, Chennai-9.

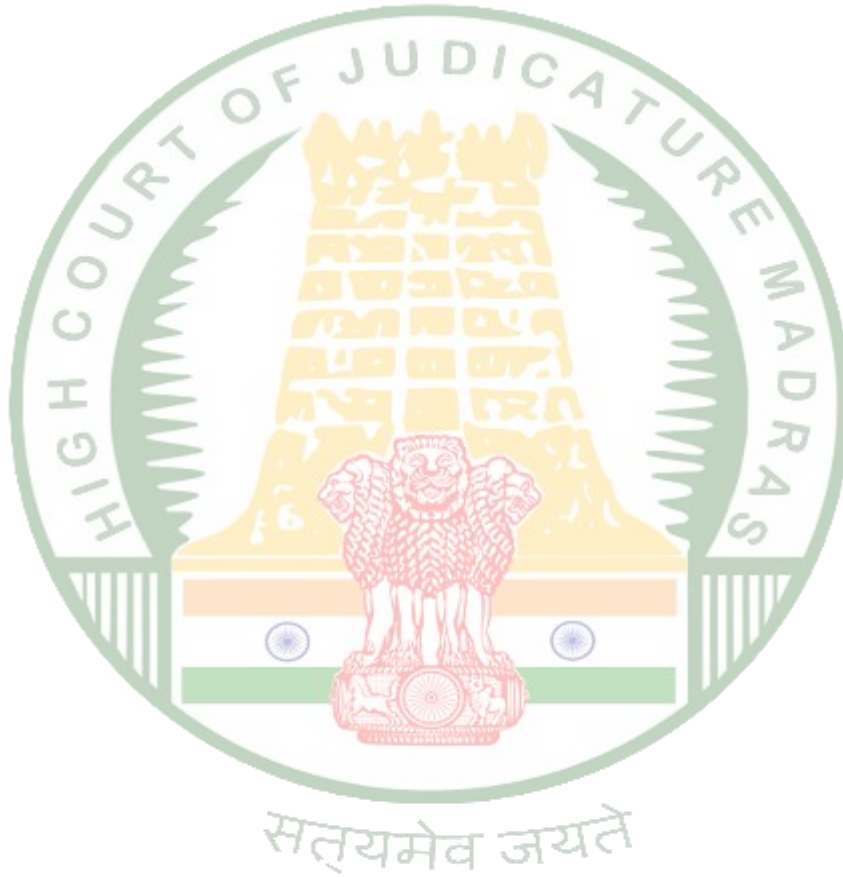
2.The Inspector General of Registration,
Santhome, Chennai-28.

3.The Registrar of Societies,
Chennai (Central),
Chennai-18.

+2cc to M/S.V.Chandra Prabu, Advocate, S.R.No.10121
+1cc to the Government Pleader, S.R.No.9978

W.P.No.3785 of 2016

rsk(CO)
srg(04/03/2016)



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