



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2014

C O R A M

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

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Civil Revision Petition (PD) (MD) No.2209 of 2014

Shankar

..Petitioner

Vs.

1.Pasuvai Boys Cricket Club,
through its Secretary,
S.Muthukumar,
having office at
No.37, North street,
Pasupathipalayam,
Karur 4

2.Activa Alpha Cricket Club,
through its Secretary,
K.Rajendran
having office at
No.2, Kamarajar Nagar,
Ganapathypalayam
Thanthonimalai,
Karur - 5

..Respondents

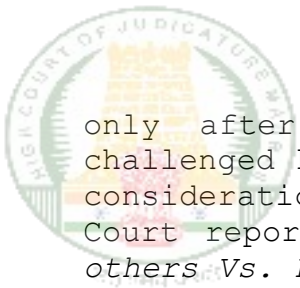
Petition filed under Article 227 of the Constitution of India, against the fair and decretal order passed in C.M.A.No.17 of 2013, dated 23.07.2014 on the file of the Principal District Judge, Karur confirming the fair and decretal order in I.A.No.511 of 2013 in O.S.No.333 of 2013, dated 26.09.2013 on the file of the Principal Subordinate Judge, Karur.

For Petitioner : Mr.V.Bharathidasan
For Respondents : Mr.Vinoth Singh Misra

ORDER

Challenging the fair and final order passed in C.M.A.No.17 of 2013 in O.S.No.333 of 2013 on the file of the Principal District Court, Karur confirming the fair and final order passed in I.A.No.511 of 2013 in O.S.No.333 of 2013 on the file of the Principal Sub Court, Karur, the fourth defendant has filed the above Civil Revision Petition.

2.The plaintiffs have filed a suit in O.S.No.333 of 2013 to declare the notice dated 02.09.2013 as not legally valid and binding and for permanent injunction restraining the defendants 4 and 5 from pursuing with the unlawful agenda. In the said suit, the plaintiffs have filed an application in I.A.No.511 of 2013 seeking for an order of interim injunction restraining the respondents 4 and 5 from proceeding further on the basis of the notice dated 02.09.2013 including the conducting of election to the various offices in the Karur District Cricket Association till the disposal of the suit. The said application was contested by the defendants on various grounds. The defendants mainly contended that the suit is not maintainable in view of the settled position of law. The defendants further contended that once the election process had commenced the Courts should not interfere with the election process and



only after the completion of the election, the results could be challenged before the Court of law. However, the Courts below took into consideration the said aspect and also the judgment of the Hon'ble Apex Court reported in (2011) 13 SCC 774 (*Supreme Court Bar Association and others Vs. B.D.Kaushik*) wherein the Apex Court has held as follows:-

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43.It hardly needs to be emphasized that in any Body governed by democratic principles, no member has a right to claim an injunction so as to stall the formation of the Governing Body of the Association. No such right exists in election matters since exercise of a right conferred by a rule is always subject to the qualifications prescribed and limitations imposed thereunder. The contention of the respondents that the amendment to Rule whereunder the right to be eligible to contest for any post for the Association or the eligibility to cast the vote at the election, takes away the right completely, is misconceived since by the amendment the right is not taken away but is preserved subject to certain restrictions on its exercise and this could always be done.

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60.Further, the appellants had rightly pointed out to the learned Judge that election process had already started and, therefore, injunction, as claimed, should not be granted. Since 1952 this Court has authoritatively laid down that once election process has started the courts should not ordinarily interfere with the said process by way of granting injunction. The argument advanced by the appellants that election process having started, the injunction should not be granted is dealt with by the learned Judge by holding that in the present case the plaintiffs have not prayed for injunction against the election process.

3.From the above judgment, it is clear that once the election process had already started, an order of interim injunction cannot be granted. In the case on hand, though the Courts below came to the conclusion that ordinarily an order of interim injunction cannot be granted after the commencement of the election process, erroneously granted an order of status quo which is against the principles laid down by the Hon'ble Apex Court in the Supreme Court Bar Association's case cited *supra*.

4.When the Courts below are bound to follow the principles laid down by the Apex Court in the strict sense, the Courts below erroneously granted an order of status quo which is liable to be set aside. Accordingly, the fair and decretal order passed by the Court below in C.M.A.No.17 of 2013 confirming the fair and final order passed in I.A.No.511 of 2013 in O.S.No.333 of 200 are set aside and the Civil Revision Petition is allowed.

5.Learned counsel for the respondents submitted that pursuant to the orders passed by the lower Appellate Court directing the trial Court to dispose of the suit within a period of three months, the trial Court had postponed the matter on 03.11.2014 for trial. He would further submit that the defendants have filed written statement and that the plaintiffs also filed their proof affidavit before the trial Court.



6.The said submission made by the learned counsel for the respondents is recorded. In such an event, the trial Court is directed to dispose of the suit on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order taking into consideration the judgment of the Apex Court in the Supreme Court Bar Association's case cited *supra* with regard to the maintainability of the suit. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1.The Principal District Judge, Karur

2.The Principal Subordinate Judge, Karur.

+1cc to Mr.V.Bharadhidasan, Advocate in SR.58316

Civil Revision Petition (PD) (MD) No.2209 of 2014
30.10.2014

sms

pbk 07/11/2014 ::3p-4c: