

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 01.12.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR**S.A(MD)No.692 of 2011**

David Appa Durai

... Appellant/Appellant/Plaintiff

vs.

1.Tirunelveli C.M.S. Evangelical
Church Sangam,
Reg.No.S2-1925/26,
Idayankulam,
Represented through its
Secretary J.Daniel.

2.J.Daniel

3.The District Elementary Education Officer,
Tirunelveli.

4.The State-Rep.through
The District Collector,
Tirunelveli.

5.The District Elementary Educational Officer,
Tuticorin.

6.The State Rep.through,
The District Collector,
Tuticorin.

...Respondents/Respondents/
Defendants

PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure, against the the Judgement and Decree dated 26.08.2010 and made in A.S.No.73 of 2010 on the file of the Sub-Court, Tirunelveli, confirming the Judgment and Decree dated 07.04.2010 in O.S.No.740 of 2008 on the file of the First Additional District Munsif, Tirunelveli.

For Appellant : Mr.S.Mani

For Respondents : Mr.V.Panneerselvam

For M/s.C.S.Associates for R2

: Mr.S.Sathish Kumar

Addl.Govt.Pleader for R3 to R6.

: No Appearance for R1

**JUDGMENT**

The plaintiff in the suit in O.S.No.740 of 2008 on the file of the First Additional District Munsif Court, Tirunelveli, is the appellant in the above second appeal.

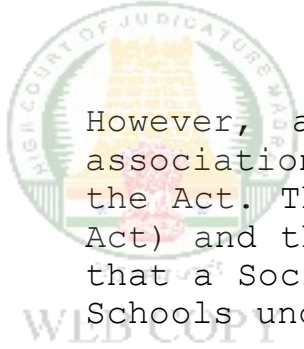
2. The first respondent herein is the Society registered under the Societies Registration Act, (Central Act). Subsequently, the first respondent is also stated to have registered the Society under the Tamil Nadu Societies Registration Act, 1975. The second defendant who is an individual was the Secretary of the 27 Schools run by the first defendant. The other defendants are the officials of the educational department of the State. The suit is for permanent injunction restraining the defendants from in any manner administering the School by a sole Secretary as it has no Corporate Management.

3. It is the case of the plaintiff in the plaint that the first defendant Society is running several Schools. As per the provisions of the Tamil Nadu Recognised Private Schools Regulation Act, 1973. Unless the Educational agency is a Company or Corporate body, every School run by the individual should have a separate School Committee. Since the first defendant Society, namely, educational agency is running several institutions by nominating a single Secretary, the plaintiff stated that he is entitled to the relief. It is to be noted that the plaintiff claims himself as a protestant Christian and disciple to the first defendant Church. Except stating that the plaintiff was a retired Headmaster of the School, he has not stated any other cause for filing the suit for permanent injunction. The trial Court dismissed the suit.

4. Aggrieved by the same, the plaintiff preferred an appeal before the Principal Sub-Court, Tirunelveli, in A.S.No.73 of 2010. The lower appellate Court has also dismissed the appeal. Aggrieved by the judgment and decree of the lower appellate Court, the present Second Appeal has been filed by the plaintiff.

5. The only argument that was advanced by the learned Counsel for the appellant is that by virtue of Section 15 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, every educational agency established for administering or maintaining more than one private School, should have a separate School Committee for every School and that a single Secretary cannot be permitted or allowed to act as a common Correspondent of all the Schools unless the educational agency is a Company or Corporation owned or controlled by the State or Central Government.

6. A Society registered under the Societies Registration Act, is a legal entity. Perpetual existence of the Society as a Corporate body has been recognized by the Courts. The provisions of the Societies Registration Act, with regard to enrollment of members, the management and administration of the Society by elected members, may indicate that the Society is not a Company.



However, a Society is recognized as a body of members or an association of individuals with objects in terms of Section 3 of the Act. The provisions of the Societies Registration Act (Central Act) and the Tamil Nadu Societies Registration Act, would indicate that a Society can be established to manage and administer several Schools under the common name and seal.

7. It is brought to the notice of this Court that the status of the Management of the School run by the first defendant is recognized as a Corporate even from 01.07.1975. The combined list of primary and middle School within Cheranmahadevi Range printed by the State Government reveals this fact. Apart from this, it is not in dispute that the educational department has recognized the management of the Schools by the first defendant all these years.

8. In such circumstances, Corporate management as per Section 15 of Private School Regulations Act, would also include a Registered Society and the Schools run by the educational agency which is a Society under the Societies Registration Act, can administer or maintain more than one private school by a common School Committee with the members as specified under Section 15 of the Act and the Rules or by a Secretary in respect of minority schools.

9. In such circumstances, *prima facie*, I am satisfied that there is no substance in the contention of the learned Counsel for the appellant. Further, as it has been found by the Courts below, the petitioner is only a retired Headmaster, he cannot have any legal injury as an ex-employee of the School. He had not expressed any of his personal grievance about the system of management that the defendants 1 and 2 have adopted.

10. Secondly, the petitioner was appointed and engaged by the defendants 1 and 2 for several years. The petitioner having served for a considerable years and enjoyed the benefit of his employment, cannot question the system of management which the educational agency decided to have. If the petitioner has not suffered any legal injury or expressed any grievance, he has no *locus standi* to maintain the suit for injunction. The Courts below have also considered the contentions of the plaintiff and that the present suit is nothing but a fictitious one motivated by extraneous reasons.

11. In such circumstances, I am not inclined to interfere with the findings of the Courts below, as no question of law much less a substantial question of law involved in this second appeal. Accordingly, the Second Appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)



To

1.The Subordinate Judge,
Tirunelveli.

2.The First Additional District Munsif,
Tirunelveli.

+1 CC to Mr.V.PANNEERSELVAM, Advocate, SR No.78870

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No.79005

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01.12.2016

gsr

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