

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2017

CORAM

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.M.A.No.2429 of 2017
and
CMP.No.13102 of 2017

1.Vasdhath R.Krishnan
2.M.G.Dhathathri
3.N.Vasanth
4.S.Sumathi
5.D.Karunya
6.D.Mouneswari
7.S.Syed Hussain
8.K.R.Siddeswaran
9.M.Rajesan

...Appellants/Defendants

vs.

1.Tamil Nadu Soft Tennis Association
Rep. by its president K.Arjunan

2.K.Arjunan
3.Dr.R.Chitra
4.A.Senthilkumar
5.M.Sembannan
6.G.Sivakumar
7.R.Karthick
8.B.Selvalakshmanan
9.P.Thiagarajan
10.A.Nagarajan
11.K.R.Vijayakumar
12.T.Senthamarai Kannan
13.V.Pandiarajan
14.C.Ramachandran
15.M.Manimurugan
16.R.Vivekanandan
17.K.Prabakaran
18.D.Kandamoorthi
19.A.Sasi Raja
20.M.Aravind

... Respondents/Respondents

Civil Miscellaneous Appeal is filed under XLIII Rule 1(r) of Civil Procedure Code to set aside the fair and decreetal order dated 09.06.2017 made in I.A.No.169 of 2016 in O.S.No.135 of 2016 on the file of the learned II Additional District Judge,

Salun

For Appellants : Mr.E.C.Ramesh
For Respondents : Mr.T.R.Rajaraman
for M/s.Veena Suresh

J U D G M E N T

This appeal is by the defendants in O.S.No.135 of 2016. The said suit was filed by the respondents herein for a declaration that the respondents 2 to 20 are the duly elected office bearers of the first respondent Association, for an injunction restraining the appellants herein namely defendants 1 to 9 in the said suit from interfering with the functioning of the plaintiffs 2 to 20 as the governing body of the first plaintiff for declaration that the defendants 1 to 9 / appellants are not duly elected members of the Executive Committee of the first plaintiff Society, for permanent injunction restraining defendants 1 to 9 from in any manner functioning as the Governing body of the first plaintiff society and for other reliefs.

2. Pending the said suit an application in I.A.No.169 of 2016 was filed under order 39 Rule 1 and 2 seeking a temporary injunction restraining the defendants 1 to 9 from in any manner interfering with the governance of the first petitioner/ first plaintiff society by the plaintiffs/ petitioners 2 to 20.

3. The case of the plaintiffs is that the defendants 1 to 9 and the second plaintiff were elected as Office Bearers of the first plaintiff society in the election that held on 08.06.2014 the period of office as per the bye-law is 3 years. Since the first defendant and the other Office Bearers acted against the interest of the society. The second plaintiff who was elected as President in the election that was held on 08.06.2014 sent representations to various Authorities pointing out certain irregularities in the Committed by the first defendant/ first appellant with reference to the selection of players to participate in the International Tournament and also issued fake certificates to the players who have not won any tournaments.

4. In the light of the dispute the second plaintiff called for an Executive Committee meeting. However, the first defendant did not attend the said meeting. In the Executive Committee that was held on 02.08.2015, it was resolved to conduct a Special General body meeting by the first plaintiff Society on 13.09.2015. In the said General Body meeting the defendants 1 to 9 were removed as Office Bearers.

5. The bye-laws of the first plaintiff Society were amended increasing the number of Executive Committee member to 19. On the same day the elections were held and the plaintiffs 2 to 20 were elected as Office Bearers and Executive Committee

members. On the strength of the said election the plaintiffs sought for an injunction restraining the defendants from interfering with the affairs of the first plaintiff Society.

6. The said application was resisted by the respondents namely defendants 1 to 9 contending that the second plaintiff and others were removed from the membership of the society on 12.06.2015 itself and as such they have no right to convene either the Executive Committee meeting on 02.08.2015 or the Special General Body meeting on 13.09.2015. It was also contended that there was a Special General Body meeting on 01.08.2015 in which the defendants 1 to 9 were elected as Office Bearers. On the above pleadings the defendants sought for dismissal of the application for injunction.

7. Before the trial Court the plaintiffs produced nearly 73 documents and the respondents/defendants did not produce any documents. Oral evidence was dispensed with by the parties. Upon consideration of the documents the learned trial Judge concluded that the claim of the defendants that the second plaintiff and others were removed from membership of the first plaintiffs society on 12.06.2015 was not true. He had taken note of the fact that the second plaintiff has issued certificates to the participants in a tournament held on 13.06.2015 and 14.06.2015. The learned trial Judge pointed out that no documents have been filed to prove the said removal. Similarly, the claim that there was a General Body meeting held on 01.08.2015 in which the defendants 1 to 9/ the appellants herein were elected as office bearers, was also held not proved by producing documentary evidence.

8. On the other hand, the learned trial Judge found that the plaintiffs have produced documents to show that the first defendant had committed several irregularities in nominating players for International Tournament and also issued certificates to players without they having won any match in the International Tournament held at China.

9. The learned trial Judge also concluded that prima facie the claim of the plaintiff that there was a General Body meeting held on 13.09.2015 and they were elected on the said date was proved beyond doubt. On the above findings the learned trial Judge granted an injunction restraining the defendants/ respondents from in any manner interfering with the governance of the first petitioner Association by petitioners 2 to 20. Aggrieved the defendants 1 to 9 are on appeal.

10. Heard Mr.E.C.Ramesh, learned counsel appearing for the appellants and Mr.T.R.Rajaraman, learned counsel for Mrs.Veena Suresh appearing for the respondents 1 to 20.

11. Mr.E.C.Ramesh, learned counsel appearing for the appellants would contend that the first respondent Society is not recognized by the All India body namely the Amateur Soft Tennis Federation of India and the Sports development authority of Tamil Nadu has also not recognized the first respondent Association. Therefore, according to the learned counsel the trial Court erred in granting an order of injunction.

12. Per contra Mr.T.R.Rajaraman, learned counsel appearing for the respondents would contend that affiliation with all India Body or recognition of Tamil Nadu Sports Development Authority are outside the scope of the suit. The learned counsel would submit that on the basis of the documents that were available before the trial Court, the learned trial Judge has reached to a conclusion that the plaintiffs/ petitioners have made out prima facie case and balance of convenience. Hence, he would urge that the discretion exercised by the trial Court cannot be interfered with likely by this Court.

13. I have considered the rival submissions, as rightly pointed out by the learned trial Judge the claim of the appellant that the second plaintiff and others who were removed on 12.06.2015 has not been established. The said contention is belied by the fact that the second plaintiff signed the certificate on 13.06.2015 and 14.06.2015 issued to the participants of the Tournament held at Salem.

14. The claim that there was a General Body meeting on 01.08.2015 and the defendants 1 to 9 were elected as office bearers has not been established by production of relevant records. On the other hand, the plaintiffs have produced the documents to show that there was an Executive Committee meeting dated 02.08.2015 in which it was decided to

remove the defendants 1 to 9 and to conduct election on 13.09.2015. From the documents it could be seen that the notices for the General Body Meeting to be held on 13.09.2015 have been sent to all the District Secretaries in Exs.B36, B37 and B38. The General Body meeting has been held on 13.09.2015 and the copy of the minutes has been produced as Ex.B41.

15. These documents would atleast prima facie show that the claim of the plaintiffs is tenable. Therefore, I do not see any reason to interfere with the order of the injunction granted by the trial Court. Hence the appeal fails and accordingly dismissed.

16. It is submitted at the bar that the suit is posted for trial on 04.09.2017 and considering the nature of the dispute involved a direction could be issued to the learned

Additional District Judge, Salem to dispose of the suit within a time frame.

17. Since the interest of several players and students is involved, I am of the considered opinion that it would be in the interest of justice, the suit is disposed of at an early date. Hence, the learned Additional District Judge, Salem is directed to dispose of the said suit as early as possible on any rate within a period of four months from the date of receipt of a copy of this order and report such a disposal to this Court. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

dsa

To

The II Additional District Judge,
Salem.

+ 1 cc to Mr. E.C. Ramesh, Advocate Sr.62982

+ 1 cc to M/s. P. Veena Suresh, Advocate Sr.62323

C.M.A.No.2429 of 2017
and

CMP.No.13102 of 2017

NM(CO)
EU(26/09/2017)

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