

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Friday, the Twenty Eighth day of July Two Thousand Seventeen

PRESENT

THE HON`BLE MR JUSTICE M. GOVINDARAJ

CMP No.12411 of 2017

IN CRP.NPD.978/2017

1 N.JAYATHILAGAM, [PETITIONERS]

2 K.K.KRISHNAN KUTTY

3 K.S.RAMMOHANDOSS,

4 K.RAJAN BABU,

5 K.SETHUMADHAVAN

Vs

1 JUSTICE E.PADMANABHAN (Retd), [RESPONDENTS]
ELECTION OFFICER, (Appointed by the
High Court as per Order dated 02.06.2016
made in O.S.A.No.119 of 2016)
NO.11,MADHA CHURCH ROAD,
MANDAVELIPAKKAM,CHENNAI-28

2 SRI NARAYAN MISSION
A REG.SOCIETY,NO.2/54,ESHWARAN KOIL STREET,
WEST MAMBALAM,CHENNAI-33

3 A.M.GOPALAN

4 V.UDAYA KUMAR

5 DEEPAK DEVARAJAN

6 T.D.RAJAN,

7 V.C.PRAVEEN

8 K.R.DHILSA

9 T.G.GOPINATHAN

Petition praying that in the circumstances stated therein
and in the affidavit filed therewith the High Court will be pleased
to stay the notice dt.8/07/2017, convening of the 88th annual

general meeting of the 2nd respondent scheduled for 30/07/2017 at 2/54, Easwaran ka street, west Mambalam, chennai or on any other date or venue (in CMP No.12411 of 2017) pending disposal of the above CRP.NPD.978/2017.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of VENKATESH MAHADEVAN, Advocate for the petitioner and of Mr.T.V.RAMANUJUN Senior Advocate for M/S. C.JAGADISH 2 to 9 Respondents the court made the following order:-

It is seen that the Civil Miscellaneous Petition has been filed by the petitioners to stay the notice dated 08.07.2017, convening of the 88th Annual General meeting of the second respondent, scheduled on 30.07.2017

2. The learned counsel for the petitioner would submit that the election is being conducted in violation of by-laws while the matter is subjudice before this Court. On a perusal of the main Civil Revision Petition, the order challenged before this Court is dated 03.11.2016 in O.S.No.4956 of 2016, wherein the name of the first respondent was deleted by the trial Court from the array of parties.

3. The suit is filed by the petitioners, in O.S.No.4956 of 2016, to declare the elections conducted by the 1st respondent herein, (pursuant to his appointment as the Election Officer by the Hon'ble High Court, Madras, as per order dated 02.06.2016 in O.S.A.No.119 of 2016) on 07.08.2016 to the various posts of the 2nd respondent society, as illegal, null and void and non-est; and for permanent injunction.

4. Admittedly, the suit as well as the Interlocutory Applications are pending before the Trial Court. The present revision petition is against the docket order passed by the trial Court deleting the name of the Election Officer/first respondent from the array of parties.

5. What is challenged before us is in respect of the convening of the 88th Annual General Meeting to be conducted for the year 2017-2018, a future event, i.e., an event not within the scope of civil revision as well as the suit. Such challenge to the future event will not fall under the purview of the Civil Revision Petition filed before us. Therefore, the relief claimed in the present stay petition is beyond the scope of the Civil Revision Petition.

6. The learned Senior Counsel appearing for the respondents 2 to 9 would contend that the cause of action is entirely new and it has no relevance to the suit, which was filed under a different cause of action. In support of his contention, he further cited a Judgment of "*K.P.M.Aboobucker Vs. K.Kunhamoo and others* reported in **AIR 1958 Madras 287**". Wherein it is read as follows:

"An interim relief granted during the pendency of a suit should not be of greater scope than what could be granted in the suit itself, after the party has established his right in the suit to that relief. That would be a very relevant factor to be taken into account in deciding whether a Court should or even could grant such an interim relief, especially so when the person against whom the interim injunction is sought is not a party to the suit, and against whom no relief could be granted in the suit itself."

7. In any event, it is open to the petitioner to work out his remedies before the trial Court and cannot maintain Civil Miscellaneous Petition in the present Civil Revision Petition.

8. Therefore, considering the facts and circumstances of the present Civil Miscellaneous Petition, the stay of convening the 88th Annual General Meeting, does not fall within the purview of the Civil Revision Petition before us. Accordingly, the Civil Miscellaneous Petition is dismissed. However, it is open to the petitioner to work out his remedies in the manner known to law.

Post the main Civil Revision Petition in usual course.

-sd/-

28/07/2017

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE REGISTRAR
CITY CIVIL COURT CHENNAI.

C.C. to M/S. C.JAGADISH Advocate SR.No.9925

The Government Advocate, High Court, Madras - 104.

Order

in
CMP.12411/2017

in
CRP.NPD.978/2017

Date :28/07/2017

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