

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER  
and  
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

O.S.A.Nos.208 and 209 of 2017  
and  
C.M.P.Nos.14301 to 14304 of 2017

Shri.P.Haridas .. Appellant in both the  
appeals

Vs.

1. Shri.Manoj Kumar Sonthalia,  
S/o.(late) Shyam Sundar Sonthalia,  
O/o.Secretary, Shri Vallabhacharya  
Vidya Sabha, Madras,  
R/at No.43, Harrington Road,  
Chetput, Chennai-600 031.
2. Shri.Hitesh Kanodia
3. Shri.Ashok Kedia
4. Shri.Ashok Kumar Mundhra  
O/o.Secretary, Dwaraka Doss Goverdhan  
Doss Vaishnav College,  
"Gokul Bagh", 833, EVR Periyar Salai,  
Chennai-600 106.

5. Shri.Hari Krishna Jhaver .. Respondents in both  
Cause title accepted vide the appeals  
Order of the Court 10/08/2017  
in CMP.No.13053 & 13052/17

Prayer : Original Side Appeal filed under Order XXXVI, Rule 9  
(1) of Original Side Rules against the fair order and decretal  
order dated 23.06.2017 in A.No.2898/2017 in O.A.No.475 & in  
A.2899/17 in O.A.476/17 of 2017 in C.S.No.354/2017.

Prayer in A.2898/17:To vacate the Order dated 05/05/2017  
granted in A.475/17.

Prayer in A.2899/17:To vacate the Order dated 05/05/2017  
granted in A.476/17.

For Appellant in : Mr.A.L.Somayaji, Senior Counsel  
both the appeals for M/s.K.Shakespeare

For Respondents : Mr.Vijaya Raghavan for R1  
in both the appeals Mr.Chandramouli Prabhakar  
for RR 2 to 4

## COMMON JUDGMENT

[Judgment of the Court was delivered by RAJIV SHAKDHER, J.]

1. These are two appeals filed by the same appellant against the common judgement and order dated 23.06.2017, passed by the learned Single Judge, whereby, interim injunction granted vide order dated 05.05.2017, in O.A.Nos.475 and 476 of 2017 was vacated and, Applications No.2898 and 2899 of 2017, were allowed.

2. The appellant, being aggrieved by vacation of the interim order dated 05.05.2017, has preferred these appeals.

3. On the previous date, we had put to Mr.A.L.Somayaji, learned Senior Counsel appearing on behalf of the appellant, as to whether the appellant would be averse to the suggestion of holding a fresh election, as the term of the Executive Council, in the normal course, as per the constitution of the Shri Vallabhacharya Vidya Sabha, (in short, "the Society"), which runs and manages, inter alia, D.G.Vaishnav College, would come to an end in January, 2018.

3.1. Mr.Somayaji, on the previous date, had indicated that the appellant may not be averse to such a suggestion. Learned Senior Counsel's only submission was, that if, elections are to be held, they should be held under the supervision of a neutral person, who, inter alia, would also ensure the preparation of the voters list as well, having under regard to the extant bye-laws.

4. Mr.Vijaya Raghavan, who appears for respondent No.1, i.e., the Secretary of the Society, says that he has obtained instructions and that, his client is also agreeable to the elections being held under the supervision of a neutral person, appointed by this Court. Learned counsel further submits that the neutral person, who, the Court appoints may also supervise the meeting of the Executive Council, which according to the convention of the Society, is convened on the same date, when, elections are held and the election results are declared.

4.1. Furthermore, learned counsel says that he concedes the position taken by the learned counsel for the appellant that the following persons, which includes the appellant before us, would not need to stand for election, as they are permanent members of the Executive Council : (i) Govinddas Purushothamdas; (ii) P.Haridas; and (iii) Tanmay B Shah.

5. Mr.R.Prithviraj Pandian, who appears for respondent No.2 to 4 in the captioned appeals, says that the said respondents are also agreeable to a direction being issued by this Court for holding of elections under the supervision of a neutral person, as also for preparation of voters list, as per

the extant bye-laws.

6. Accordingly, the appeals are disposed of, with the following directions :

(i) The election to the Society shall be held under the supervision of Hon'ble Mr.Justice K.P.Sivasubramaniam, a former Judge of this Court.

(ii) Hon'ble Mr.Justice K.P.Sivasubramaniam, will take all steps necessary for conduct of elections, as per the constitution of the Society, which would include preparation of the voters list, as per the extant bye-laws.

(iii) The date for holding the elections would be a date which would fall in the month of January 2018. The date can be fixed by Hon'ble Mr.Justice K.P.Sivasubramaniam, after consulting all stakeholders. It is made clear, though, while consultations will be made, the final decision as to the date will be that of Hon'ble Mr.Justice K.P.Sivasubramaniam.

(iv) In so far as the Executive Council meeting is concerned, Hon'ble Mr.Justice K.P.Sivasubramaniam, will ensure that it is convened and held under his supervision, preferably, on the same date, when elections are held and results are declared.

7. For his efforts, Hon'ble Mr.Justice K.P.Sivasubramaniam, will be paid an honorarium of Rupees 1,00,000/- (Rupees one lakh only). This amount will be paid by the Society.

8. In addition, the Society will also reimburse all incidental expenses, which may be incurred in carrying out the mandate of the Court.

9. Furthermore, we make it clear that any findings and observations made in the impugned judgement will not come in the way of the final determination in the suit.

9.1. The findings in the suit, as is obvious, will be dependent on the evidence produced by the parties, and hence, will remain uninfluenced by observations recorded by the learned Single Judge in the impugned judgement and order.

9.2. Mr.Vijaya Raghavan, who appears for respondent No.1, says he does not dispute the said principle.

9.3. The said submission is taken on record.

10. The appeals are, accordingly, disposed of, in the aforementioned terms. Resultantly, pending applications shall stand closed. No costs.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Hon'ble Mr.Justice K.P.Sivasubramanian,  
Former Judge of the Court.

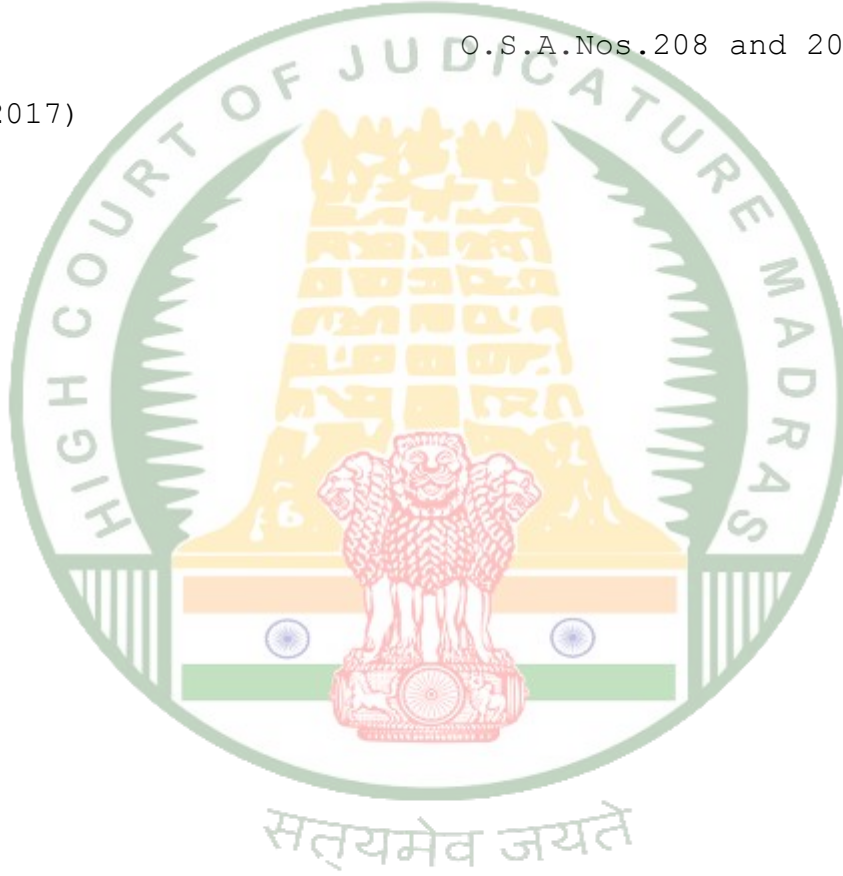
2.The Sub Assistant Registrar,  
Original Side,  
High Court, Madras.

+2cc to Mr.K.Shakespeare, Advocate, S.R.No.63901&63902

+1cc to Mr.V.Srikanth, Advocate, S.R.No.64268

O.S.A.Nos.208 and 209 of 2017

SVI(CO)  
GN(04/10/2017)



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