

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.09.2017

Coram

The Honourable Mr. Justice RAJIV SHAKDHER
and

The Honourable Mr. Justice ABDUL QUDDHOSE

Original Side Appeal Nos.231 to 242 of 2017
and C.M.P.Nos.15759 to 15774 of 2017

1. The Gandhi Nagar Club,
(A Club registered under the Societies
Registration Act under Reg.No.12/1951)
Rep. by its Secretary,
No.73, B.Ramachandra Adhithanar Salai,
(Formerly Fourth Main Road),
Gandhi Nagar, Adyar, Chennai - 600 020.
 2. Sunil Reddy
 3. Mohan Raghavan
 4. Mahesh V Shanbhag
 5. D.Ilamurugu
 6. T.N.Ananth
 7. K.Balaji
 8. Ganesan Maniyan
 9. R.Natarajan
 10. B.Suresh Kumar
- ... Appellants in all OSA
Vs.
1. B.Venkatesh alias B.Venkatasubramanyam
 2. Veluchamy
 3. Sudhakar Rajendran
 4. V.Ravichandran
 5. George V.Joseph
 6. P.Ramkumar
- ... Respondents in all OSA

Prayer in O.S.A.No.231 of 2017: Appeal filed under Order XXXVI Rule 1 of Original Side Rules read with Clause 15 of the Letters Patent, against the common Judgement and Decree dated 08.08.2017 in O.A.Nos.260 & 261 of 2017 and Application No.1756 of 2017 in C.S.No.203 of 2017.

OSA No.232 of 2017

To set aside the common judgment and decree 08/08/2017 passed in OA No. 261/2017 in CS. NO. 203/2017

OSA No.233 of 2017

To set aside the common judgment and decree 08/08/2017 passed in Appln. No. 1756/2017 in CS. NO. 203/2017

OSA No.234 of 2017
To set aside the common judgment and decree 08/08/2017 passed in
OA No. 262/2017 in CS. NO. 204/2017.

OSA No.235 of 2017
To set aside the common Judgment and Decree dated 08/08/2017
passed in O.A.No. 263 of 2017 in C.S.No. 204 of 2017

OSA No.236 of 2017
To set aside the common Judgment and Decree dated 08/08/2017
passed in Application No. 1757 of 2017 in C.S.No. 204 of 2017

OSA No.237 of 2017
To set aside the common judgment and decree 08/08/2017 passed in
OA No. 264/2017 in CS. NO. 203/2017

OSA No.238 of 2017
To set aside the common judgment and decree 08/08/2017 passed in
OA No. 264&265/2017 and appl no 1758/2017 in CS. NO. 205/2017
and thereby render justice.

OSA No.239 of 2017
To set aside the common judgment and decree 08/08/2017 passed in
Application No 1758/2017 in CS. NO. 205/2017

OSA No.240 of 2017
To set aside the common judgment and decree 08/08/2017 passed in
OA No. 266/2017 in CS. NO. 206/2017

OSA No.241 of 2017
To set aside the common judgment and decree 08/08/2017 passed in
OA. No. 267/2017 in CS. NO. 206/2017.

OSA No.242 of 2017
To set aside the common judgment and decree 08/08/2017 passed in
A. No. 1759/2017 in CS. NO. 206/2017.

and

OA.260/2017: To pass an order ad interim injunction restraining the respondents their office Bearers General Committee members officers employees subordinates agents and / or any other persons acting under them from in any manner interfering with the applicants right to continue as a resident member of the first respondent club with all attendant right to use all amenities and facilities of the first respondent club pending disposal of the suit.

OA.261/2017: To pass an order ad interim injunction restraining the respondents their office Bearers General Committee members officers employees subordinates agents and / or any other persons acting under them from circulating or disseminating in any manner any complaint notice or report against the applicant in relation to the accounts of the first respondent club up to 30.09.2016 to the members of the first respondent club or put up the same on the notice board of the first respondents club pending disposal of the suit.

OA.262/2017 :To pass an order ad interim injunction restraining the respondents their office Bearers General Committee members officers employees subordinates agents and / or any other persons acting under them from in any manner interfering with the applicants right to continue as a resident member of the first respondent club with all attendant right to use all amenities and facilities of the first respondent club pending disposal of the suit.

A.No.1756 of 2017 to 1758 of 2017:

To pass an order granting an Interim stay of the operation of the notice dated 09.03.2017 issued by the first respondent club and all further proceedings thereunder pending disposal of the suit.

For Appellants : Mr.Krishna Srinivas
in all OSAs for Messrs Ramasubramaniam & Asso

For Respondent 1 : Mr.Alagiriswamy, Senior Advocate,
in O.S.A.231 to 233/17 for Mr.R.Parthasarathy

For Respondent 1 : Mr.R.Gandhi, Senior Advocate,
in O.S.A.234 to 236/17 for Mr.R.Parthasarathy

For Respondent 1 : Mr.R.Parthasarathy
in O.S.A.237 to 242/17

WEB COPY

C O M M O N J U D G E M E N T

(Judgement of the Court was made by RAJIV SHAKDHER, J.)

1. We may indicate herein that during the course of arguments, counsel for the parties, had, upon a suggestion of the Court agreed that the infractions allegedly committed by the following persons i.e. (i) Mr.S.Venkatesh, (ii) V.Lakshman, (iii) Ashok Sarrangan and (iv) R.V.Gopalan, who are parties to the present proceedings and five (5) other members of The Gandhi Nagar Club (in short 'Club'), who are not arrayed as parties would be examined by an independent-outside Auditor (in short 'Auditor').

2. In this connection, we had asked the learned counsel for the parties to furnish us, an agreed name of a Chartered Accountancy firm, which would conduct forensic audit, in respect of the matters, which require scrutiny and / or investigation, having regard to the allegations which form subject matter of the appeals listed before us.

2.1. Accordingly, counsel for the parties have placed before us the name of the Chartered Accountancy firm which could conduct the forensic audit and in addition, also indicated, jointly, the terms of reference which would govern the scrutiny and / or investigation to be carried out by the Auditor.

3. In this background, the following is required to be noted as aspects on which agreement has been reached between parties.

3.1. That Messrs N.C.Rajagopal & Co, having its office at No.22/29, Krishna Swamy Avenue, Mylapore Road, Mylapore, Chennai - 600 004, would conduct forensic audit.

3.2. That the scope and / or ambit of scrutiny and / or investigation to be carried out by the said Auditor will be in accordance with the Joint Terms Of Reference dated 15.09.2017 (in short "JFT"). In this behalf, in particular, regard will be had to Clause 1(a) to (c) of the JFT.

3.3. That the Auditor will complete the scrutiny and / or investigation within a period of eight (8) weeks from the date of this order, though, not later than 30.11.2017.

3.4. That the said Auditor will be paid a fee of Rs.3,00,000/- (Rupees three lakhs only) and the burden of fees will be borne by the Club.

3.5. That the specifics of the mandate given to Auditor which are detailed out in the JFT, will form part of this order.

3.6. That the captioned appeals can be disposed of with a direction to the Auditor to conduct a forensic audit in accordance with the JFT placed before the Court.

3.7. That the findings reported by the Auditor will be placed before the General Body, upon a meeting being called in that behalf. In case any party is aggrieved by the outcome contained in the report, he/she shall be at liberty to file his/her objections to the same.

3.8. That the General Body will allow the objector(s) to present his/her case before them. After hearing objector(s), the General Body will pass a resolution, as deemed fit.

3.9. Notwithstanding the decision taken at the General Body Meeting, the aggrieved party will be at liberty to assail the findings on the Auditor's report and / or the decision of the General Body, in the manner known to law.

4. The Club shall give access to all books of accounts, vouchers, papers, minute books required by the Auditor to carry out his mandate in terms of the JFT.

5. Mr. Krishnan Srinivas, who appears on behalf of the appellants says that in view of the above, the Annual General Meeting which is slated for 24.09.2017, shall be deferred and the same will be convened after the report is generated by the Auditor and placed before this Court.

5.1. The said statement is taken on record.

6. It is directed that pending the report of the Auditor and the decision of the General Body the following persons, i.e., (i) Mr. S. Venkatesh; (ii) V. Lakshman; (iii) Ashok Sarrangan; and (iv) R. V. Gopalan, shall continue as members of the Club.

7. We make it clear that the Auditor will conduct the scrutiny and / or investigation without being influenced by the observations made by the learned Single Judge and / or in the report 06.03.2017 generated by the Fact Finding Committee.

8. Having regard to the aforesaid, the captioned appeals are disposed of, in accordance with the JFT, which shall form part of this order.

8.1. The parties shall give due assistance to the Auditor.

9. List the matter for compliance on 04.12.2017, by which date the Auditor will place his report before the Court, albeit, in a sealed cover. Consequently, the pending miscellaneous petitions shall also stand disposed of.

Kk

This matter having been listed under the caption 'For Compliance' on 11.12.2017 and in pursuant to the order of this Court, dated 15.09.2017 and 04.12.2017 and made herein in the presence of the aforesaid counsel on either side, the Court made the following order:-

(Order of the Court was made by RAJIV SHAKDHER, J.)

1. This matter is listed 'for compliance' today.

2. The Auditors M/s.N.C.Rajagopal & Co., Chartered Accountants, have placed on record the audit report dated 11.12.2017, in a sealed cover. The sealed cover is opened.

3. Learned counsels for the parties undertake to follow the directions contained in the order dated 15.09.2017.

4. Copies of the audit report dated 11.12.2017, will be furnished to Mr.Krishna Srinivas and Mr.R.Parthasarathy.

4.1. The Auditors, if necessary, will furnish copies of the report to the other interested parties, on payment of costs.

5. The captioned appeals are consigned to record.

* xerox copy of Joint terms of Reference for Appointment of Special Auditor enclosed

सत्यमेव जयते

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gg

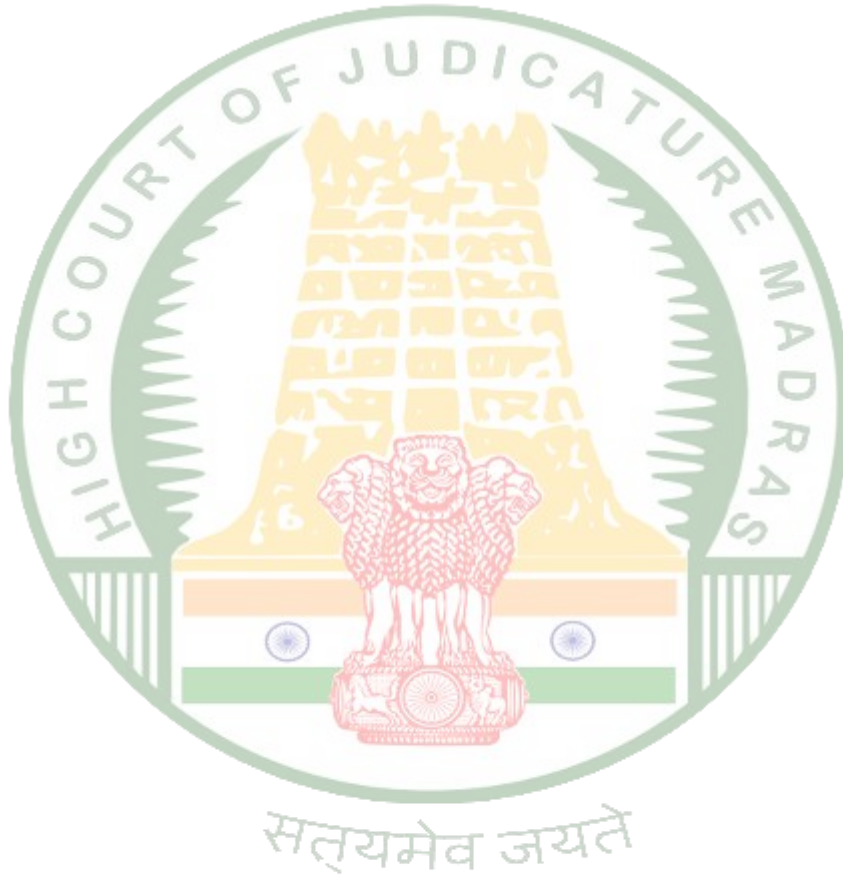
To

1. The Sub Assistant Registrar (Original Side),
High Court, Madras.

2. M/s.N.C.Rajagopal & Co
No.22/29 KrishnaSwamy Avenue
Mylapore Road, Mylapore Chennai-04

O.S.A.Nos.231 to 242 of 2017 and
C.M.P.Nos.15759 to 15774 of 2017

kjl(co)
aa21/09/2017
CS/03/01/18



WEB COPY