

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.10.2017

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDHER
&
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

O.S.A.No.267 of 2017
and C.M.P.No.17381 of 2017

Madras Gymkhana Club
Rep. By its Secretary
Having its office at
No.1, The Island Grounds
Anna Salai, Chennai - 600 002. ... Appellant

Vs.

- 1.Colonel Dr.Edwin Jesudoss (Retd)
Victor Evelyn Heritage
8, Theruveedian Street
Gopalapuram, Chennai - 600 086.
- 2.Major General Jose Manavalan (ret'd)
Oceanic 1604, Hiranandavi Upscale
Rajiv Gandhi Salai
Egattur, Chennai - 600 130.
- 3.Commodore ThayiHari (ret'd)
81, Kumarrappa Street,
Nungambakkam, Chennai - 600 034.
4. Surgeon Commander Salim J.Thomas (Retd),
41, Ethiraj Salai, Egmore,
Chennai - 600 008.
5. Colonel K Malaiappan (Retd)
Green Gardens, 389/2, "L" Block,
Anna Nagar East, Chennai - 600 102.
6. Captain R.Sivasailam, IAS (Retd.),
14/2, Venus Colony First Street,
Alwarpet, Chennai - 600 018.
7. Ex-Officio Patron of the Club,
Madras Gymkhana Club
(General Officer of Commanding) ... Respondents

Appeal filed under Order XXXVI Rule II of the O.S.Rules r/w Clause 15 of the Letters Patent, against the order dated 12.09.2017, made in O.A.No.867 of 2016 in C.S.No.718 of 2016.

OA.867 OF 2016

Original Application praying that this Hon'ble court be pleased to grant of an ad interim injunction restraining the defendants their men agent or or any other person in any way confirming the proposed resolution by the first plaintiff during annual general meeting dated 30.9.2016 or in any other General body meeting without permitting the Garrison members and Garrison Members (Retired) to cast their vote as envisaged under Rule V of the byelaws pending disposal of the suit

For Appellant : Mr.P.H.Aravind Pandian,
Senior Counsel for Mr.Raja Sekhar

For Respondents : Mr.S.S.Rajesh

JUDGEMENT

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

1. After some arguments, learned counsel for the parties are agreed that while, in substance, they do not have the difficulty with the direction issued by the learned single Judge, they would want this Court to modify the directions contained in paragraph No.20 of the impugned judgment and order of the learned Single Judge to the extent it provides for a two stage procedure for holding a General Body Meeting.

2. It is the submission of the learned counsel for the parties that a perusal of the directions contained in paragraph No.20 would show that the former Judge, who has been appointed as the Commissioner to preside over the meeting of the Special General Body Meeting, is in the first instance required to put the proposals, which are adverted to in paragraph No.18 of the impugned judgment to the General Body, albeit, in accordance with the bye-laws, and after the General Body takes a decision that the proposals need to be put to vote, only then the members would be called upon to cast their votes.

3. It is, thus, the submission of the learned counsel for the parties that instead of having a two stage procedure, which would, in the first instance, require the General Body to take a decision as to whether or not balloting is required, after a discussion is held, in that behalf, and then have the proposals

put to vote-to save time, the proposals could, instead, straightaway be put to vote.

4. To be noted, there are three categories of members referred to in paragraph No.20 of the impugned judgment, who have been permitted to vote by the learned Single Judge. These being: Garrison Members, Garrison Members (retired) and other members, i.e., resident members. To be noted, though, there is no specific reference to resident members, counsel for the parties, agree that the expression "other members" would mean resident members under the bye-laws.

5. Having heard the learned counsel for the parties, we are of the opinion that the impugned judgment and order of the learned Single Judge could be modified to the extent indicated by the learned counsel for the parties.

5.1. Thus, paragraph No.20 of the impugned judgment and order is varied to the extent that upon the General body comprising of category of members referred to above, being convened, the proposals referred to in paragraph No.18 of the impugned judgment and order would straightaway be put to vote upon the required quorum being reached at the meeting.

5.2. It is made clear that other conditions and directions which are contained in the impugned judgment and order of the learned Single Judge will remain unaltered.

6. We make it clear that the learned Judge Commissioner would be free to devise a suitable procedure, which is in consonance with the bye-laws, for a peaceful conduct of the General Body Meeting.

7. At this stage, the counsel for the parties request that the learned Judge Commissioner be directed to convene the Special General Body Meeting, in and about, 30th November 2017. It is ordered accordingly.

8. The Appeal is, consequently, disposed of in the aforesaid terms. Resultantly, connected pending application shall stand closed. There shall, however, be no order as to costs.

सत्यमेव जयते
Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

To

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

2.The Hon'ble Smt.Justice Aruna Jagadeesan,
Judge(Retd), High Court, Madras.
Judge Commissioner
residing at No.5, Kaveri Nagar Beach,
II Street, Kottivakkam, Chennai-600 041

+1cc to V.Balasubramanian, Advocate in sr.no.71660
+1cc to M.S.Rajasekar, Advocate in sr.no.72208 (24/10/17)
+2cc to Mr.S.S.Rajesh, Advocate in sr.no.12924(25/10/2017)

O.S.A.No.267 of 2017

NR 23/10/2017



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