

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.616 of 2016 and
CMP No.8140 of 2016

Urimam Petra Kaikari Vyaparigal
Podhu Nala Sangham
Rep. by its Secretary S.R.M.Jayaraman
G-88, Periyar Market,
Koyambedu Wholesale Market Complex,
Koyambedu, Chennai - 600 092. ...Appellant/Petitioner

Vs

- 1.The Inspector General of Registration,
Inspector General of Registration Office
Santhome High Road,
Chennai - 600 004.
- 2.The District Registrar (Administration)
Additional Registration Department Temporary,
(Additional Post) Central Madras,
Chennai - 600 014. ...Respondents/Respondents

Prayer:- Writ Appeal filed under clause 15 of Letters Patent, against the order made in W.P.No.40314 of 2015 dated 28.03.2016. Petition filed under Article 226 of the constitution of India praying for a writ of certiorari calling for the records of the 2nd respondent in his proceedings no. 15 of the Tamilnadu Government Gazette Notification dated 23.04.2014 issued under section 44(4) of the Tamilnadu Societies Registration Act 1975 and quash the same.

For Appellant : Mr.M.Raja Sekhar

For Respondents: Mr.V.Anandhamurthy
Addl. Govt.Pleader

J U D G M E N T

K.K. SASIDHARAN, J.

The appellant earlier filed a writ petition in W.P.No.25199 of 2014 challenging the order passed under section 44 (4) of the Tamil Nadu Societies Registration Act,

1975 by the Registrar. The writ petition was dismissed. The order was confirmed by the Division Bench in W.A.No.1673 of 2015. The appellant thereafter filed a fresh writ petition challenging the publication of the notification dated 23 April, 2014 on the file of the District Registrar (Central Madras). The writ petition was dismissed on account of the earlier writ petition for the very same relief. Feeling aggrieved, the appellant has come up with this intra court appeal.

2. The learned counsel for the appellant submitted that when the earlier writ petition was filed, the appellant was not in possession of the Gazette Publication and as such, only the notice was challenged. It was only subsequently, the appellant received the Gazette notification and immediately thereafter, the writ petition was filed. According to the learned counsel, the contention now taken was not the contention taken in the earlier writ petition and as such, the learned single Judge was not correct in dismissing the writ petition.

3. The second respondent passed an order dated 18 August, 2014 under Section 44(4) of the Tamil Nadu Societies Registration Act,. The order was challenged before the writ court in W.P.No.25199 of 2014 on the ground that prior notice was not issued before passing such a drastic order involving civil consequences. The writ petition was dismissed. The related appeal was rejected by the Division Bench in W.A.No.1673 of 2015.

4. The appellant after conclusion of the proceedings filed a fresh writ petition in W.P.No.40314 of 2015. Even though the order under challenge was a different one, the fact remains that the primary challenge was only to the order deleting the name of the Society from the Registration Book.

5. The contention taken by the appellant before the writ Court in W.P.No.25199 of 2014 that without issuing notice under Section 44(1) of the Tamil Nadu Societies Registration Act, the Registrar was not expected to pass orders dissolving the affairs of the Sangam under Section 44(4) of the Tamil Nadu Societies Registration Act was negatived by the writ Court. The Gazette Notification is dated 23 April, 2014. It was only after the Gazette Notification, the appellant earlier filed the writ petition in W.P.No.25199 of 2014. Nothing prevented the appellant from collecting a copy of the Gazette Notification and making it part of the proceedings. It is not open to the appellant to file a fresh writ petition on the basis of an order which was very much available as on the date on which earlier writ petition was filed. Even when the matter was pending before the Division Bench in W.A.No.1673 of 2015, the appellant has not chosen to produce the said order to canvass the points. The grounds available to the appellant were not taken at the initial point of time. Those

grounds are deemed to have been rejected. The Gazette notification would not give a fresh cause of action to the appellant to file another writ petition for the very same relief. The ultimate relief claimed in the earlier writ petition is the substantial relief claimed in the present writ petition also, except the change regarding the impugned order. We are therefore of the view that the learned single Judge was correct in dismissing the writ petition on account of the earlier proceedings in W.P.No.25199 of 2014 and the related appeal in W.A.No.1673 of 2015.

6. In the result, the intra court appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

svki

To

1.The Inspector General of Registration,
Inspector General of Registration Office
Santhome High Road,
Chennai - 600 004.

2.The District Registrar (Administration)
Additional Registration Department Temporary,
(Additional Post) Central Madras,
Chennai - 600 014.

+ 1 cc to M/s. M. Rajasekhar, Advocate SR.84448

+ 1 cc to Government Pleader SR.85084

W.A No.616 of 2016

AK(CO)
EU(19/01/2018)