



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.02.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**
AND
THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

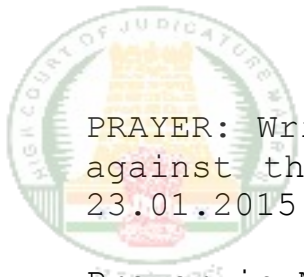
W.A. [MD] .No.124 of 2015
and
M.P. (MD) Nos.1 to 3 of 2015

1.Prabhakaran Nadar
2.Ashokmaran Nadar
3.Anandaraj
4.Balasubramanian Nadar
5.Kasimariappan Nadar
6.Nanthakumar
7.Selvamurugan
8.Abraham Ayyathurai : Appellants

Vs.

1.T.Thangamariappan
2.The Inspector General of Registration,
O/o. Inspector General of Registration,
No.100, Santhome High Road,
Mandaiveli,
Chennai-600 028.
3.The District Registrar,
O/o. District Registrar,
Kokarakulam, Tirunelveli District.
4.The President,
Kovilpatti Nadar Uravinmurai Sangam,
Kovilpatti, Tuticorin District.
5.The Secretary,
Kovilpatti Nadar Uravinmurai Sangam,
Kovilpatti,
Tuticorin District.
6.The Inspector of Police,
Kovilpatti West Police Station,
Kovilpatti,
Tuticorin District.

: Respondents



PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order of a learned Single Judge of this Court dated 23.01.2015 in M.P.(MD)No.3 of 2015 in W.P.(MD).No.17302 of 2014.

Prayer in MP(MD). 3/ 2015 in WP(MD).17302/2014 :

To grant an order of interim direction directing the Advocate Commissioner appointed by this Honourable Court in the above writ petition to recount the votes polled by manually pursuant to the election held on 28.12.2014 for the 50 executive committee members to the Kovilpatti Nadar Uravinmurai Sangam, Kovilpatti.

Prayer in WP(MD). 17302/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the 2nd respondent to nominate an officer in the office of the 2nd respondent to conduct the election of office bearers of the 3rd respondent sangam in the forthcoming General Body Meeting in accordance with the decisions of this Honorable Court in W.P(MD) No.14140 of 2014 and 15101 of 2014 and the provisions of Tamil Nadu Societies Registration Act, 1975 and consequently direct the 5th respondent to provide police protection for the above said election within the time that may be stipulated by this Honble Court.

For Appellants	: Mr.T.Lajapathi Roy
For Respondent No.1	: Mr.M.Ajmal Khan, Senior Counsel For Mr.A.Balaji
For Respondents 2,3&6:	Mr.N.S.Karthikeyan, Additional Government Pleader
For Respondents 4&5	: Mr.K.Seemaraj

JUDGMENT

[Judgment of the Court was delivered by R.SUBBIAH, J.]

This Writ Appeal is directed as against the order of this Court dated 23.01.2015, made in M.P.(MD)No.3 of 2015 in W.P.(MD). No.17302 of 2014.

2. The first respondent, who is a member of Kovilpatti Nadar Uravinmurai Sangam, has filed a Writ Petition in W.P.(MD)No.17302 of 2014, seeking for a direction to the second respondent therein to nominate an officer in the office of the second respondent therein to conduct the election of office bearers of the third respondent Sangam therein in the forthcoming General Body meeting in accordance with the decisions of this Court in W.P.(MD) Nos.14140 of 2014 and 15101 of 2014 and the provisions of Tamil Nadu Societies Registration Act, 1975 and consequently, direct the first respondent therein to provide police protection for the above said election.



3. The said Writ Petition was disposed of by the Writ Court, by order dated 29.10.2014, appointing one Mr.V.Sitharanjan Das, learned counsel, as Advocate Commissioner to conduct the election of members of the Executive Committee in the forthcoming General Body Meeting of the Sangam in question. Thereafter, the third respondent herein has appointed one Mr.Kumaresan (Sathankulam Sub-Registrar) as Observer for the election, by proceedings dated 17.11.2014. Thereafter, the Advocate Commissioner issued a notification on 01.12.2014 for conducting election to the Sangam and after observing all legal formalities, election was conducted and on completion of election, votes were counted and thereafter, results were also declared by the Advocate Commissioner on 29.12.2014.

4. At this juncture, the appellants herein moved an application in M.P.(MD)No.3 of 2015 in W.P.(MD)No.17302 of 2014, seeking an order of interim direction, directing the Advocate Commissioner appointed by this Court in the above Writ Petition to recount the votes polled manually pursuant to the election held on 28.12.2014 for the 50 Executive Committee members to the Kovilpatti Nadar Uravinmurai Sangam, Kovilpatti. In the said application, the learned Single Judge has passed an order on 23.01.2015, as follows:

"8. Mr.V.Sitharanjan Das, learned counsel was appointed as Advocate Commissioner, who has done his work and the election is over. Therefore, if the petitioners herein are aggrieved, they are at liberty to move the appropriate forum for appropriate relief and the observations made either in the order dated 29.10.2014 or in this order will not stand in the way of the petitioners from challenging the election. It is, at this point of time, the learned counsel appearing for the petitioners would submit that the petitioners herein are not objecting to the election and their objections relate to mode of counting the votes."

5. Aggrieved over the said order, the appellants have filed the present Writ Appeal.

6. The learned counsel for the appellants submitted that pursuant to the order passed by the learned Single Judge, the Registry of this Court is keeping the ballot papers in safe custody. Hence, by appointing an Advocate Commissioner, votes can be counted. He had submitted that by counting of votes, no prejudice would be caused to the first respondent herein.

7. The said submission was opposed by the learned Senior Counsel appearing for the first respondent stating that with



regard to the election to the Sangam, already a civil suit is pending before the District Munsif Court, Kovilpatti. Further, there is a direction by the learned Single Judge to the Registry of this Court to keep the ballot papers in safe custody only for a period of six months and thereafter, to hand over the ballot papers to the Sangam concerned, after obtaining necessary authentication. Now, the ballot papers were also handed over to the Sangam. As such, there is no need to appoint the Advocate Commissioner for the purpose of counting of votes.

8. In view of the above said submission, this Court directed the Registry to report as to whether the ballot papers are in safe custody of the Registry or whether the same were handed over to the Sangam. Pursuant to the said direction, the Registry has submitted a report that the ballot papers were handed over to the Officer bearers of Sangam in question. Since the ballot papers were already handed over, nothing survives for adjudication in this appeal. Hence, the Writ Appeal is dismissed.

9. At this juncture, the learned counsel for the appellants submitted that even though nothing survives for adjudication in this appeal, since the ballot papers were handed over by the Registry of this Court to the Sangam, the appellants may be permitted to agitate the issue with regard to the validity of appointment of an Advocate Commissioner for conducting the election to the Sangam in the present case. Since the prayer in the Writ Appeal has become infructuous, this Court is not inclined to permit the appellants to put forth their submission with regard to the validity of appointment of Advocate Commissioner in conducting election of the Society registered under the Societies Registration Act. However, the said issue is left open and hence, the appellants are at liberty to agitate the issue with regard to the validity of appointment of Advocate Commissioner for conducting the election to the Sangam in appropriate cases.

No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(R)

/True Copy/

Sub Assistant Registrar

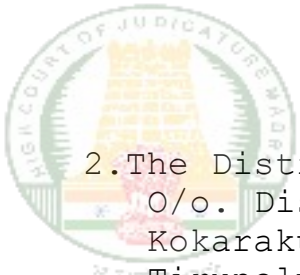
SML

To

1.The Inspector General of Registration,
O/o. Inspector General of Registration,
No.100, Santhome High Road,

<https://hcservices.madras.gov.in/>

Chennai-600 028.



2.The District Registrar,
O/o. District Registrar,
Kokarakulam,
Tirunelveli District.

WEB COPY

3.The Inspector of Police,
Kovilpatti West Police Station,
Kovilpatti,
Tuticorin District.

+1cc to Spl.Government Pleader Sr.No. 8947

+1cc to Mr.K.Seemaraj,Advocate Sr.No. 8742

+1cc to Mr.T.Lajapathi Roy, Advocate Sr.No. 8907

JAM/07.03.17 /PM-PN/SAR 2/5p-7c

**JUDGMENT MADE IN
W.A. (MD) No.124 of 2015**

Dated: 16.02.2017