



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) Nos.1146 & 1149 of 2017
and
C.M.P. (MD) Nos.7880 & 7923 of 2017

K.Mohammed Ibrahimsha Johny
Secretary,
Hajee KK Ibrahim Ali Hr. Sec. School Society
.. Appellant in W.A. (MD) No.1146/17

M/s.Hajee KK Ibrahim Ali Hr. Sec. School Society,
Rep. by its President
M.Saibulla
.. Appellant in W.A. (MD) No.1149/17

Vs.

1. M.Asaitambi
2. The District Registrar,
Registrar of Societies,
District Registrar Office,
Sivagangai,
Sivagangai District. .. Respondents 1 & 2 in both appeals
3. Hajee KK Ibrahim Ali Hr. Sec. School Society,
Rep. by its President. ... 3rd respondent in W.A. (MD) No.1146/17

Common Prayer: Writ Appeals are filed under Clause 15 of Letters Patent, as against the order dated 07.08.2017 made in W.P. (MD) No.14019 of 2017 on the file of this Court.

Prayer in WP (MD) . 14019/ 2017:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to strictly implement the order passed by the 1st respondent by his proceedings in Na.Ka.No. 1249/A2/2011, dated 10.12.2012 and to appoint an Advocate Commissioner along with the Election Observer to conduct the forthcoming Election for the period of 2018-2020 in the 2nd respondent Society in accordance with law.

**W.A. (MD) No.1146/17:**

For Appellant
For Respondents

: Mr.B.Prahalad Ravi
: Mr.M.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates for R.1
Mr.M.Murugan, Government Advocate for R.2
Mr.J.John, for R.3

WEB COPY

W.A. (MD) No.1149/17:

For Appellant
For Respondents

: Mr.R.Balachanderan
: Mr.M.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates for R.1
Mr.M.Murugan, Government Advocate for R.2

COMMON JUDGMENT

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

These appeals have been preferred by the Secretary and President of the second respondent school respectively, in the Writ Petition *inter alia* alleging that the Writ Petition has been filed by the suspended member, who thereafter got an order from this Court, based on the consent given by a person claiming to be the President, though removed.

2. The learned Counsel for the appellant in both appeals would submit that the material facts are suppressed. The consent has been given to the Writ Petitioner, by the second respondent in the writ petition, claiming to be the President. It is the appellants, who are the President and the Secretary of the second respondent school in the Writ Petition. As per the bylaws, the Secretary has to represent all the cases initiated in favour or against the second respondent in the Writ Petition. Thus the order will necessarily have to be set aside.

3. The learned Senior Counsel appearing for the first respondent / Writ Petitioner would submit that it is true that as per the bylaws, the secretary is the person to contest the case. However, without going into other issues, this Court may decide the Writ Petition on merits.

4. We are not constrained to undertake such an exercise. As fairly stated by the learned Senior Counsel that it is the Secretary, who is supposed to represent the Society. In such view of the matter, the consent given on behalf of the society, by the second respondent in the writ petition, to the writ petitioner cannot sustained in the eyes of law.

5. Such being the case, the order passed by the learned Single Judge stands set aside and the matter is remand back to the

learned Single Judge for fresh consideration.

6. Consequently, the appellants herein are arrayed as party respondents in the Writ Petition. The Registry is directed to make necessary entries in the cause title by way of amendment and post the Writ Petition before the learned Single Judge on 13.09.2017, who is dealing with the aforesaid Writ Petition, as per the roaster, after obtaining appropriate orders from the Hon'ble Administrative Judge.

7. In result, these Writ Appeals are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

The District Registrar,
Registrar of Societies,
District Registrar Office,
Sivagangai,
Sivagangai District.

Copy To:-

1. The Assistant Registrar
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

2. The Sub - Assistant Registrar
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

(for compliance of the directions issued herein).

- + 1 CC TO Mr.B.PRAHALAD RAVI, ADVOCATE IN SR No. 76320
- + 1 CC TO Mr.J.JOHN, ADVOCATE IN SR No. 76263
- + 1 CC TO M/s.AJMAL ASSOCIATES, IN SR No. 76298
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 76252, 76251
- + 1 CC TO Mr.R.BALACHANDRAN, ADVOCATE IN SR No. 75932

TA/GK

TE/MR-KKR/SAR-II : 07/09/2017 : 3P/9C

ORDER MADE IN

W.A.(MD) Nos.1146 & 1149 of 2017 and
C.M.P.(MD) Nos.7880 & 7923 of 2017

01.09.2017