



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2017

CORAM:

THE HONOURABLE **MR. JUSTICE M.M.SUNDRESH**

AND

THE HONOURABLE **MR. JUSTICE N.SATHISH KUMAR**

W.A. (MD).Nos.1424 to 1426 of 2016 &

C.M.P. (MD).Nos.10721 and 10722 of 2016

W.A. (MD) .No.1424 of 2016

R.Rajendran

President

Hosanna Children Home,

Lower Camp, Periyar Project House,

Theni District.

...Appellant/ Petitioner

Vs.

1.The District Registrar,

Periyakulam,

Theni District.

2.July Immanuel

3.I.D.Mathew

... Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order dated 17.09.2014 made in W.P.(MD).No.4288 of 2009.

Prayer in WP(MD). 4288/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to approve the Form VII submitted on 05/07/2007 by the petitioner.

For Appellant : Mr.R.Subramanian

For Respondents :Mr.M.Murugan for R1

Government Advocate

Mr.V.Sitharanjasdas for R2 & R3

W.A. (MD) .No.1425 of 2016

R.Rajendran, President Hosanna Children Home,

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

Lower Camp, Periyar Project House,

Theni District.

...Appellant/ Petitioner



Vs.

1.The District Collector,
Theni District,
Theni.

2.The District Social Welfare Officer,
Theni District, Theni.

3.The District Child Protection Officer,
Theni District,
Theni.

4.The Child Welfare Committee,
(Constituted under Juvenile Justice Act)
Rep. by its President,
District level Officers Block 2,
Collectorate,
Theni 625 531.

5.Pandyan

... Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order dated 17.09.2014 made in W.P.(MD).No.16523 of 2013.

Prayer in WP(MD) . 16523/ 2013 :

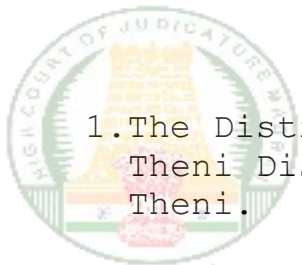
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified, calling for the records relating to the impugned Order passed by the 4th respondent in CWC/176/2013/ Theni District, dated 26.09.2013, and quash the same.

For Appellant	: Mr.R.Subramanian
For Respondents	:Mr.M.Murugan for R1 to R4
	Government Advocate
	No appearance for R5

W.A. (MD) .No.1426 of 2016

R.Rajendran
President
Hosanna Children Home,
Lower Camp, Periyar Project House,
Theni District.

...Appellant/ Petitioner



1.The District Collector,
Theni District,
Theni.

2.The District Social Welfare Officer,
Theni District, Theni.

3.The District Child Protection Officer,
Theni District,
Theni.

4.The Child Welfare Committee,
(Constituted under Juvenile Justice Act)
Rep. by its President,
District level Officers Block 2,
Collectorate,
Theni 625 531.

... Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order dated 17.09.2014 made in W.P.(MD).No.14481 of 2013.

Prayer in WP(MD). 14481/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the respondents 2 to 4 herein in No.Nil, dated 12.08.2013, quash the same.

For Appellant : Mr.R.Subramanian

For Respondents :Mr.M.Murugan for R1 to R4
Government Advocate

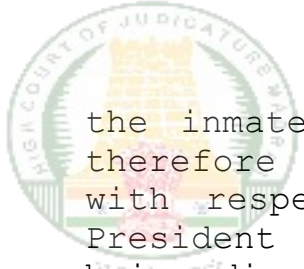
COMMON JUDGMENT

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

Three appeals have been preferred against the orders passed in the three writ petitions filed by the appellant. In the three writ petitions the appellant has sought for a direction to approve Form-VII submitted on 05.07.2007. He has also challenged the lock and seal of the premises in which the appellant was running a Home and taking over of the said Home by the Child Welfare Committee.

2. The learned Single Judge dismissed all the writ petitions after taking note of the counter affidavit filed by the official respondent to the effect that the appellant cannot represent the Society being removed from the primary membership.

3. The learned counsel appearing for the appellant would submit that insofar as the relief sought for in approving Form-VII and running Home, thought there is no permission granted, they no longer survive. Due to efflux of time, period itself is over and



the inmates were sent to some other homes. The learned counsel therefore submits that the findings of the learned Single Judge with respect to removal of membership and giving a status of President to the contesting respondent will have to be set aside being disputed question of facts. As the building was taken over from the appellant, the same is required back to him.

4. The learned counsel for the contesting respondent would submit that the appellant was removed from the primary membership. In pursuance to the orders passed by this Court on the earlier occasion in W.P.No.4615 of 2001, election was conducted periodically. Therefore, the contention of the appellant cannot be countenanced. The building in question which has been sealed admittedly belong to the Society. Therefore, there is no question of handing it over to the appellant.

5. The learned Government Advocate appearing for the official respondent submitted that the appellant is facing other proceedings as well.

6. The findings rendered by the learned single Judge ought to have been seen contextually for the purpose of deciding the writ petitions alone. It will neither give a declaration either in favour of the appellant or in favour of the private respondents. Further, the new private respondent has taken charge as President and continues. Therefore, to that extent the order passed by the learned Single Judge is clarified. The only other issue is with respect to handing over the building sans inmates. Admittedly, the building belong to the Society. Therefore, this Court cannot accede to the request made by the learned counsel for the appellant that it should be returned to him, since his enjoyment itself is based upon alleged role as the President.

7. In such view of the matter, we direct the District Social Welfare Officer, Theni District, to take a call on the question of handing over the possession to the present office bearers namely the President and Secretary, of Hosanna Children Home. For the aforesaid purpose, he has to issue notice to both the appellant as well as the private respondents and thereafter satisfy himself .

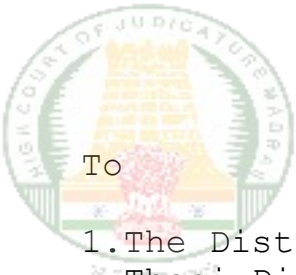
8. At this juncture, the learned Government Advocate, submitted that a suit has been filed by the appellant in O.S.No.21 of 2010 before the learned Sub Court, Uthamapalayam. The learned counsel for the appellant submitted that the appellant would withdraw the same. The statement is accordingly recorded. The appeals stand disposed of with the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar



To

1.The District Collector,
Theni District, Theni.

2.The District Social Welfare Officer,
Theni District, Theni.

3.The District Child Protection Officer,
Theni District, Theni.

4.The President
The Child Welfare Committee,
(Constituted under Juvenile Justice Act)
District level Officers Block 2,
Collectorate, Theni 625 531.

5.The District Registrar, Periyakulam, Theni District.

6.The Sub Court,Uthamapalayam.

+1cc to M/S.R.SUBRAMANIAN, Advocate SR.No.77392

+1cc to the Special Government Pleader, SR.No. 77710

jikr

MAS/SV-MMS/SAR12:27.09.2017:5P-9C

Judgment made in
W.A.(MD).Nos.1424 to 1426 of 2016 &
C.M.P.(MD).Nos.10721 and 10722 of 2016
06.09.2017