

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.01.2018

Coram

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

W.A.Nos.1574 of 2014, 1686, 1687 & 1688 of 2015

W.A.No.1574 of 2014

T.Ramesh Appellant/3rd Respondent
Vs.

1.J.Jayakrishnan

2.The Registrar of Companies,
Shastri Bhavan,
Nungambakkam, Chennai.

3.The Assistant Registrar of Companies,
Shastri Bhavan,
Nungambakkam, Chennai.

4.The Deputy Commissioner of Police,
Cyber Crime , City Crime Branch,
Chennai.

[R4 impleaded as party respondent vide order of
court dated 12.10.2017 by RSAJ & NSKJ made
in W.A.No.1574 of 2014 & M.P.No.1 of 2014]

..Respondents/1st petitioner/
Respondents 1&2

PRAYER: The Writ Appeal has been filed under clause 15 of Letters Patent to set aside the order dated 15.09.2014 made in W.P.No.33692 of 2013 on the file of this Court and to allow the writ appeal. Writ petition filed under Article 226 of the constitution of India praying for issuance of a writ of certiorari calling for the records relating to the order dated 26.11.2013 in respect of form-18 dated 12.02.2013, 23.1.2013 filed vide SRN.B67607176, B67610279, B66349945 passed by the 2nd respondent herein and quash the same calling for the records relating to the order dated 29.11.2013 in No.4435/41/2013 passed by the 3rd respondent herein and quash the same.

For Petitioner : Mr.Nithyaesh Natraj
For respondents : Mr.P.H.Aravind Pandian, Sr.C.
For Kumarpal Chopra - R1
Mr.V.Venkatesan - R2 & R3
Mr.K.Dhananjayan
Spl. Government Pleader - R4

W.A.No.1686 of 2015

T.Ramesh ... Appellant/3rd respondent
Vs.

1.J.Jayakrishnan

2.The Registrar of Companies,
Shastri Bhavan,
Nungambakkam, Chennai.

3.The Assistant Registrar of Companies,
Shastri Bhavan,
Nungambakkam, Chennai.

4.The Deputy Commissioner of Police,
Cyber Crime , City Crime Branch,
Chennai.

[R4 impleaded as party respondent vide order of
court dated 12.10.2017 by RSAJ & NSKJ made
in W.A.No.1686 of 2015 & M.P.No.1 of 2015]

..Respondents/1st petitioner/
Respondents 1 and 2

PRAYER: The Writ Appeal has been filed under clause 15 of
Letters Patent to set aside the order dated 15.09.2014 made in
W.P.No.33693 of 2013 on the file of this Court and to allow the
writ appeal.

For Petitioner : Mr.Nithyaesh Natraj
For respondents : Mr.P.H.Aravind Pandian, Sr.C.
For Kumarpal Chopra - R1
Mr.V.Venkatesan - R2 & R3
Mr.K.Dhananjayan
Spl. Government Pleader - R4

W.A.No.1687 of 2015

T.Ramesh ..Appellant/3rd respondent
Vs.

1.J.Jayakrishnan

2.Kamaktchi Jayakrishnan

3.The Registrar of Companies,
Shastri Bhavan,
Nungambakkam, Chennai.

4.The Assistant Registrar of Companies,
Shastri Bhavan,
Nungambakkam, Chennai.

5.The Deputy Commissioner of Police,
Cyber Crime , City Crime Branch,
Chennai.

[R5 impleaded as party respondent vide order of
court dated 12.10.2017 by RSAJ & NSKJ made
in W.A.No.1687 of 2015 & M.P.No.1 of 2015]

..Respondents/Petitioner 1&2/
Respondent 1 & 2

PRAYER: The Writ Appeal has been filed under clause 15 of
Letters Patent to set aside the order dated 15.09.2014 made in
W.P.No.33694 of 2013 on the file of this Court and to allow the
writ appeal.

For Appellant : Mr.Nithyaesh Natraj

For Respondents: Mr.P.H.Aravind Pandian, Sr.C.

For Kumarpal Chopra - R1&2

Mr.V.Venkatesan - R3 & R4

Mr.K.Dhananjayan

Spl. Government Pleader - R5

W.A.No.1688 of 2015

T.Ramesh

.. Appellant/6th Respondent

Vs.

1.J.Jayakrishnan

2. Kamaktchi Jayakrishnan

3. The State of Tamil Nadu

Rep.by its Secretary to Government
Commercial Tax and Registration Dept.
Fort St. George, Chennai.

4. The Inspector General of Registration,
No.120 Santhome High Road,
Mandaveli, Chennai-28

5. The District Registrar,
Chengalpetu

6. The Sub Registrar,
Thiruporur.

7. The Sub Inspector of Police,
District Crime Branch,
Kancheepuram.

8. The Deputy Commissioner of Police,
Cyber Crime , City Crime Branch,
Chennai.

[R8 impleaded as party respondent vide order of
court dated 12.10.2017 by RSAJ & NSKJ made
in W.A.No.1688 of 2015 & M.P.No.1 of 2015]

...Respondents

PRAYER: The Writ Appeal has been filed under clause 15 of
Letters Patent to set aside the order dated 15.09.2014 made in
W.P.No.3103 of 2014 on the file of this Court and to allow the
writ appeal.

For Appellant : Mr.Nithyaesh Natraj
For respondents : Mr.P.H.Aravind Pandian, Sr.C.
For Kumarpal Chopra - R1 & R2
Mr.V.Venkatesan - R3 to R6
Mr.K.Dhananjayan
Spl. Government Pleader
- R7 & R8

Prayer in WP.33692 of 2013 to 33694 of 2013 and WP.3/03/2014:

Writ petition filed under Article 226 of the constitution of
India praying for issuance of a writ of certiorari calling for
the records relating to the order dated 26.11.2013 in respect of
Form-18 dated 12.02.2013, 23.1.2013 filed vide SRN.B67607176,
B67610279, B66349945 passed by the 2nd respondent herein and
quash the same calling for the records relating to the order
dated 29.11.2013 in No.4435/41/2013 passed by the 3rd respondent
herein and quash the same.

COMMON JUDGEMENT

(Judgment of the Court was delivered by RAJIV SHAKDHER, J.)

1. After some arguments, Mr.Nithyaesh, advocate, who
appears on behalf of the appellant says that his only grievance,
if at all, is that, the impugned order passed by the learned
Single Judge, seems to indicate that the Registrar of Companies
(ROC) cannot inquire into the defects in the E-Form filed by the
respondents.

2. Mr.Arvind Pandian, Senior Advocate, who appears for the
first respondent on instructions says that one cannot quibble
with the submissions that the ROC can enquire into the defects.

Learned Senior Counsel's only concern is that the attempt of the ROC to stray into an area beyond his jurisdiction, such as the issue relating to forgery.

3. Furthermore, Mr.Arvind Pandian, says that, even with regard to the aspect as to whether the E-Forms filed are defective or not the ROC will be required to follow the provisions of regulation 17 of the Companies Regulations, 1956. In other words, according to Mr. Arvind Pandian, prior notice would have to be issued before deciding as to whether or not E-Forms are, in fact, defective.

4. In these circumstances, we dispose of the appeals clarifying that the ROC will have jurisdiction to trigger an inquiry as to whether the E-Forms filed were defective or not. However, prior to coming to any conclusion in this behalf, notice shall issue to the respondents and an opportunity will be given to them to explain as to whether or not the E-Forms filed contained a defect and, if they did, who was responsible for the defect(s).

5. It is also made clear that even though the complaint before the ROC alleged that forgery had been committed, that aspect will not fall within the domain of the ROC.

6. Furthermore, it is made clear that the observations of the learned Single Judge that the respondents in the writ petition shall have to take recourse to the legal provisions to ventilate their grievance qua the issue of genuineness of digital signature, will continue to operate. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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vrc

To

1.The Registrar of Companies,
Shastri Bhavan,
Nungambakkam, Chennai.

- 2.The Assistant Registrar of Companies,
Shastri Bhavan,
Nungambakkam, Chennai.
 3. The District Registrar,
Chengalpetu
 4. The Sub Registrar,
Thiruporur.
 5. The Sub Inspector of Police,
District Crime Branch,
Kancheepuram.
 - 6.The Deputy Commissioner of Police,
Cyber Crime , City Crime Branch,
Chennai.
 7. The Secretary to Government Commercial
and Registration Dept.,
Fort St. George, Chennai.
 8. The Inspector General of Registration,
NO.120, Santhome High Road,
Mandaveli, Chennai-28.
- + 1 cc to Dr.V. Venkatesan, Advocate SR.724
+ 1 cc to Mr. Government Pleader Sr.820 and 825

W.A.Nos.1574 of 2014,
1686, 1687 & 1688 of 2015

AK(CO)
EU(02/02/2018)

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