

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated : 26.10.2018****Coram****The Honourable Ms.Justice P.T.ASHA****C.R.P(NPD)No.2962 of 2012****and****M.P.No.1 of 2012**

S.Duraisamy

...Petitioner

Versus

M.Thangarajan

...Respondent

This Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 12.07.2012 in I.A.No.256 of 2012 in I.A.No.371 of 2010 in O.S.No.3 of 1967 on the file of Principal Subordinate Judge, Salem.

(Provision amended vide order of Court dated 05.11.2012 made in M.P.Nos.1 & 2 of 2012 in C.R.P.No.2962 of 2012)

For Petitioner : Mr.R.Rajarajan

For Respondents : No Appearance

ORDER

This Civil Revision Petition is filed challenging the order passed by the learned Principal Subordinate Judge, Salem in I.A.No.256 of 2012 in I.A.No.371 of 2010 in O.S.No.3 of 1967 dated 12.07.2012, in and by which the learned Principal Subordinate Judge, Salem had allowed the Interlocutory Application filed by the respondent directing the revision petitioner to produce the documents demanded by the respondent herein and as per the order dated 29.10.2010 of the Court.

2. The respondent had filed an Interlocutory Application in I.A.No.256 of 2012 on the ground that the revision petitioner did not belong to the Sozha Vellalar community and therefore, he could not hold the Office as the President of Sozha Vellalar Sangam Trust since only a person of very same community could hold the office as the President. The respondent has also contended that he was elected as a President on 28.02.2010 and therefore, he had filed an Injunction Application in I.A.No.371 of 2010 for restraining the revision petitioner from acting in the

capacity of the President of Sozha Vellalar Sangam Trust. The said Injunction Application was dismissed by an order dated 30.06.2011 and the same was taken up by way of revision by the respondent herein in C.R.P.(NPD)No.2487 of 2011. By an order dated 18.08.2011, this Court was pleased to remit the matter back to the Subordinate Court, Salem for deciding the matter on merits with liberty to produce all the documents in favour of the respondent to decide the subject matter of the above suit O.S.No.3 of 1967. It was also contended that the learned Principal Subordinate Judge, Salem by his order dated 29.10.2010 had directed the revision petitioner to produce the documents which he had not produced to date. Since the matter was posted for cross examination of P.W.1 by the revision petitioner, the respondent had filed an Application in I.A.No.256 of 2012.

3. The said Application was resisted by the revision petitioner *inter alia* contending that there was no order dated 29.10.2010 and that the respondent was not a member of the Trust and therefore, he had no *locus standi* to question the

administration of the Trust. The revision petitioner had contended that if the respondent was a member, then the documents could be obtained by him through the General Body.

4. The learned Principal Subordinate Judge, Salem by his order dated 12.07.2012 had allowed the Application in I.A.No.256 of 2012 only on the ground that the same would serve the interest of justice and no prejudice is going to be caused. Challenging the said order, revision petitioner is before this Court.

5. Heard Mr.R.Rajarajan, learned counsel for the petitioner. Despite name of the respondent had been printed, none appeared.

6. From a perusal of the records, it is seen that the Application in I.A.No.256 of 2012 has been moved by the respondent herein only on the ground that by an order dated 29.10.2010, the learned Principal Subordinate Judge, Salem had directed the revision petitioner to produce the documents. This

statement has been refuted by the revision petitioner by contending that there is no such order. From a reading of the impugned order, it is seen that the learned Principal Subordinate Judge, Salem has believed the statement made by the revision petitioner. Further, the respondent herein had filed an Application in I.A.No.371 of 2010 for an injunction restraining the revision petitioner from acting in the capacity of either a representative or the President of Sozha Vellalar Sangam Trust as he has been selected as President on 28.02.2010 by suppressing his true community. This Interlocutory Application was dismissed. The said document was marked as Ex.P.12. No reasons are given in the affidavit filed in support of the impugned Interlocutory Application as to the necessity for summoning the other documents.

7. The learned Principal Subordinate Judge, Salem had mechanically allowed the Interlocutory Application filed by the respondent. The learned Judge has totally overlooked the fact that the documents sought by the respondent is not required for

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deciding the issue in I.A.No.371 of 2010. This non application of mind had resulted in the erroneous order. Therefore, the order of the learned Principal Subordinate Judge, Salem is liable to be set aside.

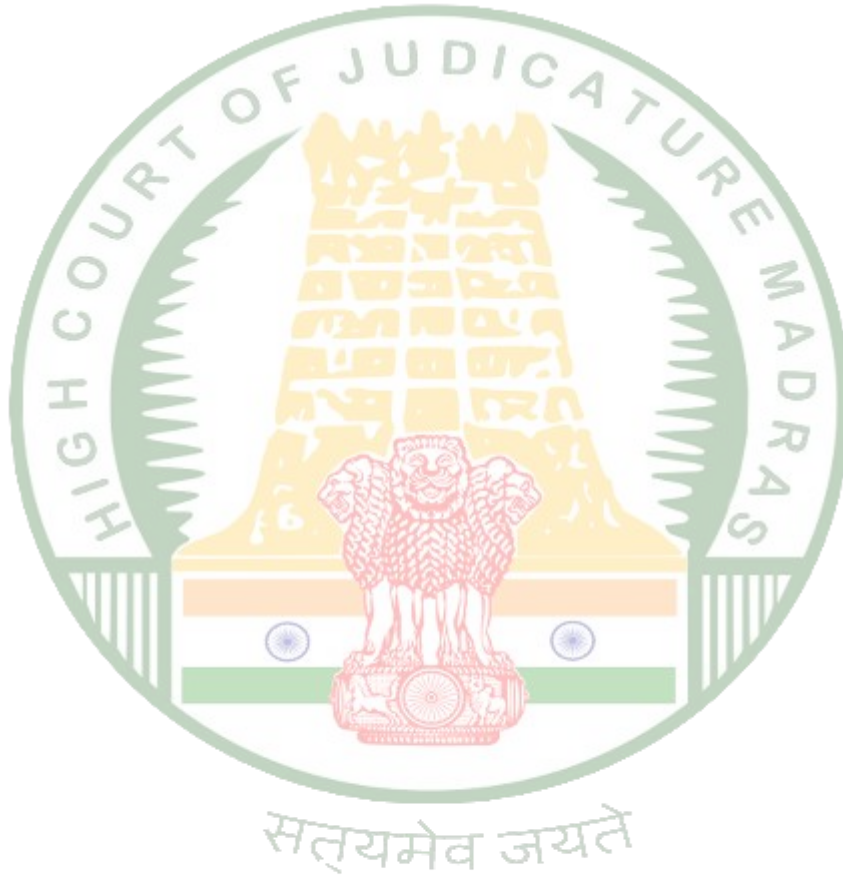
8. In the result, this Civil Revision Petition is allowed and the order passed by the learned Subordinate Judge, Salem in I.A.No.256 of 2012 in I.A.No.371 in O.S.No.3 of 1967 dated 12.07.2012 is set aside. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

26.10.2018

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Index : Yes/No

To
The Principal Subordinate Judge,
Salem.

C.R.P(NPD)No.2962 of 2012



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