

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2018

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHACivil Revision Petition.(PD) No.4387 of 2012
& M.P.No.1 of 2012

The Dakshin Bharat Hindi Prachar Sabha
Rep. by its General Secretary,
15-22, Thanikachalam Salai,
T.Nagar,
Chennai-600 017.

... Petitioner

Vs.

1. T.Chellappa,
S/o.Thiruvadi,
No.8-A, Ward No.153
Rajiv Gandhi Nagar,
Amman Koil Street, Velacherry,
Chennai 600 042.
2. C.N.V.Annamalai,
General Secretary Incharge,
Dakshin Bharat Hindi Prachar Sabha,
No.15-22, Thanikachalam Salai,
T.Nagar, Chennai-600 017.
3. N.Vijayakumaran Nair,
Additional Secretary
Dakshin Bharat Hindi Prachar Sabha (Kerala)
Chittor Road,
Ernakulam,
Kochi 16.

WEB COPY

4. S.Sridhar,
Assistant Secretary (Trainee)
Dakshin Bharat Hindi Prachar Sabha (Andhra)
Khairabad,
Hyderabad 500 004 .
5. Pattan Shetty,
Secretary,
Dakshin Bharat Hindi Prachar Sabha (Karnataka)
D.C.Compound, Darwad 1,
Karnataka.
6. G.Selvarajan,
Assistant Secretary (Trainee)
Dakshin Bharat Hindi Prachar Sabha (Tamil Nadu)
Thennur High Road, Trichy 620 017.
7. S.Sundararajan
Secretary (Book States)
Dakshin Bharat Hindi Prachar Sabha
No.15-22, Thanikachalam Salai, T.Nagar,
Chennai 17.
8. S.Radhakrishnan,
Secretary (City Office)
Dakshin Bharat Hindi Prachar Sabha
No.15-22, Thanikachalam Salai, T.Nagar,
Chennai 17.
9. Muthu,
Secretary (Patrika And Sahitya)
Dakshin Bharat Hindi Prachar Sabha
No.15-22, Thanikachalam Salai, T.Nagar,
Chennai 17.
10. Guttal,
Additional Secretary (Exams)
Dakshin Bharat Hindi Prachar Sabha
No.15-22, Thanikachalam Salai, T.Nagar,
Chennai 17.

11. TSV Panduranga Rao
Secretary (Karyalaya)
Dakshin Bharat Hindi Prachar Sabha
No.15-22, Thanikachalam Salai, T.Nagar,
Chennai 17.
12. Hiremath,
Assistant Secretary (Trainee)
Dakshin Bharat Hindi Prachar Sabha,
Subhedar Chattram Road,
Seshadaripuram,
Opp To Hotel Hoyasala,
Bengaluru.
13. Chinniyar,
Vice President,
Dakshin Bharat Hindi Prachar Sabha (Madras)
No.15-22, Thanikachalam Salai,
T.Nagar, Chennai 17.
14. R.F.Neralkatti,
Executive Committee Member,
Dakshin Bharat Hindi Prachar Sabha (Madras)
No.15-22, Thanikachalam Salai,
T.Nagar,
Chennai 600 017. ... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order dated 15.09.2012 in I.A.No.6071 of 2012 in O.S.No.10577 of 2009 on the file of the XIV Assistant City Civil Court, Chennai.

For Petitioner : Mr.Nandhkumar
for Mr.Balan Haridas

For R4, R5, R8,
R11 & R12 : No appearance

For R1-R3, R6,
R7, R9, R10,
R13 & R14 : Not ready in notice

ORDER

The above Civil Revision Petition is filed by the revision petitioner who is the first defendant in the suit challenging the order passed by the XIV Assistant City Civil Judge, Chennai in allowing the petition filed by the petitioner for receiving additional documents.

2. The suit has been filed by the first respondent herein for declaring that the appointment of the 2nd defendant/2nd respondent herein as General Secretary in-charge of the 1st respondent/Sabha as Null and Void; to declare the appointments made by the 2nd respondent pursuant to his appointment as General Secretary in-charge is Null and Void and restraining the 2nd respondent by means of an injunction from acting as General Secretary in-charge of the revision petitioner/Sabha. After the evidence of PW.1, the application in I.A.No.6071 of 2012 has been filed by the first respondent/plaintiff for receiving the additional

documents which was the identity card to prove his membership to the revision petitioner/Sabha and the certificate issued by the revision petitioner.

3. Interestingly, the affidavit has been filed by one R.Krishnamurthy who was examined as PW.2 and who is an Executive Committee Member of the revision petitioner/Sabha. The said application was contested by the revision petitioner by stating that the application has not been moved by the plaintiff and on the contrary the affidavit that is filed in support of the petition has been sworn to by a witness in the suit. That apart, they also pleaded that the petition at this late stage particularly after the evidence of PW.1 cannot be entertained. The learned XIV Assistant City Civil Judge, Chennai, however, proceeded to allow the application only on the ground that the parties must be given a chance to prove their case.

4. Heard Mr.Nandha Kumar on behalf of Mr.Balan Haridas appearing for the petitioner. He would argue that the petition is not maintainable since the same has not been to sworn by the plaintiff but by a witness in the proceedings.

5. He would also contend that the documents ought to have been filed even at the stage of institution of the suit since the first respondent herein had filed the suit on the basis of being a member in revision petitioner/Sabha. He would contend that the order is totally bereft of reasoning and therefore should be set aside.

6. Heard the counsel and perused the papers. The respondents have remained *ex-parte*, despite service of notice.

7. The learned XIV Assistant City Civil Judge, Chennai has failed to take note of the fact that the petition has not been filed by the petitioner since the affidavit has been sworn to by some third party to the proceedings and that too a witness. The learned Judge, ought to have dismissed the application at the very threshold without even numbering the same. Having numbered the same, the learned Judge, ought to have taken note of the fact that the affidavit does not contain any reasons for receiving the documents at such a late stage; particularly when the locus of the party to the *lis* has to be tested at the initial stage of the proceedings.

8. Be that as it may, the order allowing the application only on the ground that the parties to the suit should be given a chance to prove their case without taking into consideration, the procedure contemplated in the Civil Procedure Code is perverse.

9. In the result, the **Civil Revision Petition is Allowed.** The order passed by the learned XIV Assistant City Civil Judge, Chennai in I.A.No.6071 of 2012 in O.S.No.10577 of 2009 is set aside. No costs. Consequently, connected Miscellaneous Petition is also closed.

31.10.2018

bsm

Index :Yes/No
Speaking order/Non speaking order

To

The XIV Assistant City Civil Court, Chennai.

WEB COPY

P.T.Asha. J.,

bsm



C.R.P.(PD) No.4387 of 2012

WEB COPY

31.10.2018