

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
And

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

O.S.A.No.1 of 2018

Anup Joseph Samuel

... Appellant/Applicant/Plaintiff

Vs.

1. The Madras Medical Mission,
No.4-A, Dr.J.Jayalalitha Nagar,
Mogappair East, Chennai-600 037.

2. The Secretary,
The Madras Medical Mission,
No.4-A, Dr.J.Jayalalitha Nagar,
Mogappair East, Chennai-600 037.

3. Dr.K.Jacob

4. Mrs.Kunjunjamma George

5. Mr.Churian Paul

... Respondents/Respondents/
Defendants

Prayer : Original Side Appeal filed under Clause 15 of Letters Patent read with Order XXXVI, Rule 9 of the Original Side Rules, against the order dated 08.12.2017, made in Application No.854 of 2017 in C.S.No.685 of 2017.

* * *

For Appellants

:Mr.S.Silambanan, Senior Counsel
for M/s.Thomas T Jacob

For Respondents

:Mr.Abhishek Jenasenan
For Mr.A.Jenasenan

J U D G E M E N T

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

1. Issue notice. Mr.Abhishek Jenasenan, enters appearance on behalf of respondent No.1 to 3.

2. Learned counsel says that he does not wish to file any response to the appeal, or the interlocutory applications, in view of the order that we propose to pass.

3. Learned counsel for the appellant, at the outset, says that he has instructions to drop respondent No.4 and 5, from the array of parties. As prayed, respondent No.4 and 5 are deleted from the array of parties.

3.1. Furthermore, learned counsel for the appellant says that his only objection qua the impugned judgement and order dated 19.12.2017, is that, re-election qua three (3) candidates, who have obtained the same number of votes, has been ordered without adherence to bye-law 44, which requires issuance of notice of, at least, twenty one (21) clear days.

3.2. To be noted, learned Single Judge vide the impugned judgement and order to break the deadlock qua the three (3) candidates, i.e., (i) John Thomas,E.; (ii) Melvy Zacharia Varghese and (iii) Arun Kurian Joseph; has ordered re-election, as the aforementioned candidates secured equal number of votes. As per the directions contained in the impugned judgement and order, this election was ordered to be conducted on 06.01.2018 at the Residency Tower, or any other venue, subject to availability.

4. In view of the grievance expressed by the appellant, we had put to Mr.Jenanasenan, who appears for respondent No.1 to 3, as to whether he would be agreeable to have the date of election re-fixed, so that a notice could be issued in consonance with the provision of bye-law 44.

4.1. Learned counsel says that he has obtained instructions, and that, respondent No.1 to 3 would be agreeable to the modification of the impugned judgement and order to this limited extent.

5. Likewise, learned counsel for the appellant reiterates that his grievance is confined only to this aspect.

6. Accordingly, with consent of Mr.S.Silambanan, Senior Advocate, who appears for the appellant and Mr.Jenasenan, who appears for respondents, the impugned judgement is varied to the following extent :

(i) The notice to all electors will be issued in consonance with by-law 44.

(ii) A fresh date of election will be indicated to the electors, after consultations are held with the Hon'ble Judge Commissioner, by representatives of the parties herein. In the notice, the date, venue and time of election will be duly indicated.

(iii) Notice will be issued by registered post (recorded delivery). In addition, notice will also be sent by e-mail to the electors.

(iv) The Hon'ble Judge Commissioner will attempt to forge a consensus and fix a date in the third week of February, 2018.

(v) Elections will be confined with respect to the aforementioned three candidates, i.e., (i) John Thomas, E.; (ii) Melvy Zacharia Varghese and (iii) Arun Kurian Joseph.

(vi) Pending conduct of fresh elections on the date indicated by the Hon'ble Judge Commissioner, the governing body of respondent No.1 will be entitled to put in position on an adhoc basis, the Vice President and Secretary.

(vii) Upon elections being held, the Governing Body will reconvene and thereafter, appoint a regular Vice President and Secretary.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gg

To

The Sub Assistant Registrar (OS),
Madras High Court.

copy to

The Hon'ble Mr.Justice K.Venkataraman Judge, (Retd)
High Court, Madras
Judge Commissioner
residing at L Block No.125, 17th Street, East Anna Nagar
Chennai-600 102

+2 ccs to Mr.A.Jerasenan Advocate sr 1009
+1 ccs to Mr.Thomas T.Jocab Advocate sr 950

O.S.A.No.1 of 2018

aa05/01/2018



WEB COPY