

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :03.04.2018

PRONOUNCED ON:09.04.2018

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

S.A.No.950 of 2004

Manurkula Devangar Vasakasalai,
Represented by the President,
Sri.P.S.Perumal,Sevappettai,
Salem District.Appellant/Plaintiff

Vs.

The State of Tamil Nadu,
rep. by its Secretary,
Education Department,
Fort.St.George,Chennai 600 009. Respondent/Defendant

Prayer: Second Appeal filed under Section 100 of C.P.C.,
against the judgment and Decree in A.S.No.201 of 1998 dated
22.08.2002 on the file of the VII Additional City Civil Judge,
Chennai, confirming the judgment and decree of the First
Assistant City Civil Judge, Chennai in O.S.No.9283 of 1994 dated
29.01.1997.

For Appellant : Mr.S.N.Ravichandran
For Respondent : Mrs.A.Mathumathi
AGP (CS)

J U D G M E N T

Challenge in this second appeal is directed against the
judgment and decree dated 22.08.2002 passed in A.S.No.201 of
1998 on the file of the VII Additional Judge, City Civil Court,
Chennai, confirming the judgment and decree dated 29.01.1997
passed in O.S.No.9283 of 1994 on the file of the First
Assistant Judge, City Civil Court, Chennai.

2. The parties are referred to as per the rankings in the
trial court.

3. Suit for declaration.

4.The case of the plaintiff in brief is that the plaintiff's
society is a registered society and constituted for the purpose

of promoting education and removing illiteracy among the Devangar community in particular and among the society in general. The object of the plaintiff's society was sought to be achieved initially by imparting education to small children from first standard to fifth standard and the membership of the plaintiff's society is restricted mainly to Telugu speaking Devangar community and the primary school was started on 17.01.1913 and subsequently by making a periodical growth, the plaintiff is now running two elementary schools and a high school and the plaintiff is receiving aid from the Government as regards the running of the school and the administration and other aspects of the plaintiff's society are governed by the Tamilnadu Recognized Private School Regulation Act 1973 and accordingly, the plaintiff being a linguistic minority applied for declaration to that effect and requested the officials of the defendant to accept and treat the plaintiff's society as a minority and however, the defendant refused to heed to the genuine requests of the plaintiff and hence the plaintiff has issued the statutory notice seeking the recognition of minority status and as no response had emanated from the defendant, according to the plaintiff, it has been necessitated to lay the suit for appropriate reliefs and further according to the plaintiff being run and administered by Telugu speaking people of Devangar community and they come under the category of the minority group as per the relevant provisions of the Constitution of India and accordingly, it is stated that the plaintiff should be granted reliefs sought for.

5.The case of the defendant in brief is that the suit laid by the plaintiff is not maintainable either in law or on facts. The plaintiff's school is not exclusively meant for a particular community of the Telugu speaking people and the Supreme Court has determined that it is only the Government, which has to decide whether any institution or school is a minority one or not and instead of approaching the Government, the plaintiff has filed the suit with an ulterior motive and the plaintiff's school is open to all the people and not based on community and language and accordingly, only non-minority status has been accorded to the schools run by the plaintiff, by the Government and hence the case of the plaintiff that the plaintiff's school is meant for Telugu speaking people belonging to Devangar community is incorrect and though the membership of the plaintiff's society is restricted to a particular community, the plaintiff's school imparts education to all the people irrespective of their community and language, hence the plaintiff is not entitled to avail the benefits given to minority institutions and the defendant has issued orders in G.O.Ms.No.648/Education Science and Technology dated 03.08.1994 relying on the Supreme Court order directing that only the Government is competent to verify and determine the minority

status of the educational institution and accordingly, suit laid by the plaintiff is not maintainable and hence the suit is liable to be dismissed.

6. In support of the plaintiff's case, P.W.1 was examined. Exs.A1 to A3 were marked. On the side of the defendant, no oral evidence has been adduced. Exs.B1 was marked.

7. On a consideration of the oral and documentary evidence adduced by the respective parties and the submissions made, the Courts below were pleased to dismiss the plaintiff's suit. Challenging the same, the present second appeal has been laid.

8. At the time of admission of the second appeal the following substantial questions of law were formulated for consideration.

- i. Whether the jurisdiction of civil courts are barred to decide the question of minority status of an institution?
- ii. Whether Telugu speaking Devangar Community is a Linguistic minority in the State of Tamil Nadu?

9. Seeking the relief of declaration that the plaintiff is a linguistic minority society, the civil action has been instituted by the plaintiff against the defendant. The plaintiff's suit is resisted by the defendant contending inter alia that in the light of the orders passed by the Supreme Court, the Government has issued the G.O.Ms.No.648/Education, Science and Technology dated 03.08.1994 and by way of the above said G.O, it is the contention of the defendant that only the Government is competent to verify and determine as to whether an Educational institution is a minority institution within the meaning of Article 30(1) or Article 26 of the Constitution of India and in the light of the above position, the suit laid by the plaintiff seeking the minority status is not maintainable and hence the suit laid by the plaintiff is liable to be dismissed.

10. The plaintiff has given various reasons for its entitlement to seek the minority status. However, on a reading of the G.O.Ms.No.648 dated 03.08.1994, the copy of which has been marked as Ex.B1, which G.O has not been challenged by the plaintiff, it is found that following the order of the Supreme Court dated 18.08.1993 in W.P.(C) No.598/1993 modifying the order dated 14.05.1993 in W.P.No.335/1993 and 390/1993, it is found that the Apex Court had directed/ordered that as to the question whether an Educational Institution is a minority institution or not, it is for the Government to verify and

determine and accordingly, it is found that the state of Tamilnadu also being a party to the above said proceedings pending before the Supreme Court, giving effect to the direction/order of the Supreme Court as above noted, accordingly, passed the abovesaid G.O and thus, it is found that the abovesaid G.O has come to be issued based on the direction/order of the Supreme Court and in such view of the matter, it is seen that for seeking the minority recognition, the plaintiff henceforth should only approach the Government and not seek the said relief by laying a civil action.

11.In this connection, P.W.1 examined on behalf of the plaintiff has also admitted the issuance of the G.O marked as Ex.B1 by the Government pursuant to the direction of the Apex Court noted above and it is also found that the abovesaid G.O has come to be marked only through P.W.1 and despite the above said G.O, it is found that as admitted by P.W.1, the plaintiff has not endeavored to move the Government by way of a necessary application seeking for the minority status for enabling the Government to consider its case on merits. No reason has been given by the plaintiff as to why they had not approached the Government for seeking the minority status particularly when they are enjoined to approach only the Government for the above said recognition as per the orders of the Apex Court.

12.In the light of the above position that the G.O. marked as Ex.B1 has come to be issued following the direction/order of the Supreme Court, it is found that the said G.O is binding on one and all and accordingly, it is found that pursuant to the direction of the Apex Court, the jurisdiction of the civil court having been impliedly ousted as regards the according of the minority status of an educational institution, it is found that the plaintiff for obtaining the minority status as prayed for, should only approach the Government and accordingly, place necessary materials before the Government for its entitlement to obtain the said status. In such view of the matter, it is rightly determined by the Courts below that the plaintiff's civil action for the relief sought for is not maintainable and accordingly it is found that the Courts below had rightly dismissed the plaintiff's suit.

13.However, it is contended by the plaintiff's counsel that the civil court's jurisdiction is kept intact for seeking the minority status and in this connection the plaintiff's counsel placed reliance upon the decisions reported in 1950 (2) AIEC 350, order of this court dated 05.10.1982 passed in W.P.No.3942/1979, 2001 (4) CTC 641, judgment and decree of this court dated 12.11.1992 passed in S.A.695/1982, orders of this court dated 06.07.2017 passed in W.P.No.43331/2016 and dated 29.01.2016 passed in W.P.(MD)No.2091/2016. However, in none of

the abovesaid decisions, it has been held that the civil court has got jurisdiction even after the direction/order of the Supreme Court dated 18.08.1993 in W.P.(C).No.598/1993 modifying the order dated 14.05.1993 in W.P.335/1993 and 390/1993. Accordingly, when the Apex Court had clearly directed that henceforth the abovesaid order, it is only the Government which has the competency to verify and determine the minority status of an Educational institution, accordingly following the abovesaid direction/order of the Apex Court, the G.O.marked as Ex.B1 has come to be issued by the Government, it is found that the plaintiff has to approach only the Government for seeking the minority status as prayed for and not entitled to lay the civil action and in such view of the matter, the Courts below are justified in rejecting the plaintiff's case. The first substantial question of law formulated in the second appeal is accordingly answered against the plaintiff and in favour of the defendant. Inasmuch as it is seen that the plaintiff has to work out its remedy for approaching the Government for seeking the minority status as prayed for, this court, at present, refrains from answering the second substantial question of law formulated in the second appeal.

14.In view of the above said reasonings, the second appeal fails and is accordingly dismissed with costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The VII Additional City Civil Judge,
VII Additional City Civil Court, Chennai.
2. The Assistant City Civil Judge,
Assistant City Civil Court, Chennai.
3. The Section Officer, VR Section, High Court.
4. The Secretary, Education Department,
Fort.St.George, Chennai 600 009.

+1cc to the Special Government Pleader, S.R.No.25762

S.A.No.950 of 2004

TM(CO)

CS/15/05/18