

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 14.3.2018	Delivered on 21.3.2018
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CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.257 OF 2016

1. The State of Tamil Nadu,
rep. By it Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George,
Chennai 9
 2. The Inspector General of Registration,
Santhome High Road,
Santhome, Chennai 28
 3. The District Registrar,
Karungalpalayam,
Erode
- ... Appellants

versus

1. Chikkaiah Naicker College Managing Board,
rep. By its Committee Member,
J.Sardha @ Baby, Erode
 2. Association of University Teachers
(Regd) Tamil Nadu,
rep. By its Unit at Chikkaiah Naicker College,
by it Secretary, Erode-638 004
- ... Respondents

R2 impleaded as per order dated 03.01.2018
made in CMP.No.14487 of 2016

Appeal filed against the order passed by this Court dated
11.12.2013 passed in W.P.No.31799 of 2012.

W.P.No.31799 of 2012:-

Petition filed under Article 226 of the Constitution of
India, praying for the issuance of Writ of Certiorarified
Mandamus calling for the records comprised in G.O.Ms.No.117

Commercial Taxes and Registration (M.1) Department dt 28.8.2012 on the file of the 1st respondent quash the same and consequently direct the 1st respondent to grant exemption under section 54 of the Act for exercise its right under section 39 to pass a resolution and dissolve itself in a manner provided under section 41 of the Tamilnadu Societies Registration Act.

For appellant : Mr.S.R.Rajagopal,
Additional Advocate General
Assisted by Mr.V.Anandamoorthy, A.G.P.

For Respondents: Mr.T.R.Rajagopalan, Senior Counsel
for Mr.R.Bharanidharan, for R-1
Mr.V.P.Sengottuvel, for R-2

J U D G M E N T

P.VELMURUGAN, J.

1 (a) Thiru.Periyar E.V.Ramasamy Naicker, Rationalist Leader and Social Reformer formed a registered association by name "Chikkaiah Naicker College Managing Board" in 1954 and established a college at Erode utilising 50 acres of land allotted by the then Madras Presidency. The evil desire of few people to take over the management of the college and grab 50 acres of land and transfer the assets to their own society constituted for the said purpose is the sum and substance of this litigation.

(b) The attempt made by a person in 2012 claiming herself to be the Committee Member of Chikkaiah Naicker College Managing Board, which was declared as a defunct society on 28 December 1994, resulting in passing an order by the Registrar of Societies to strike off the name of the society and publication of the same in the Government Gazette on 3 May 1995, for revival of the society and merge it with another society formed by the son of its erstwhile Secretary, thereby, to take over the management of a college, succeeded before the learned single Judge. The State in the appeal has now demonstrated the legal flaw in the order passed by the learned single Judge, overlooking the provisions of the Tamil Nadu Societies Registration Act. The order passed by the learned Single Judge if allowed to stand would have the effect of reviving the society which was declared as a defunct society way back on 3 May 1995 and transferring all its assets, including a college and prime land given by the Government, to a society floated by the son of the alleged member of the defunct society, who earlier filed a Writ Petition challenging the action of the

Government in appointing a Special Officer to the college and to take over the institution.

(c) The first respondent managed to over come the limitation period of 60 days prescribed by the Tamil Nadu Societies Registration Act and Rules made thereunder for challenging the order declaring the society as defunct and striking off its name, by giving a representation in 2012, and challenging the order declining to grant the relief in a Writ Petition, to achieve the purpose which cannot otherwise be achieved, on account of the period of limitation.

(d) The issue is covered by the judgment of the Hon'ble Supreme Court in C.Jacob v. Director of Geology and Mining and another [2008 (13) Scale 434], wherein, the Supreme Court held that "representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone or in case an order is passed considering, or, and rejecting the claim or representation, in compliance with the direction of the Court, such order does not revive the stale claim, nor amount to an acknowledgment to give rise to a fresh cause of action.

The Facts of the Case are as follows:

2 (a) The School Board by name Mahajana Schools Board was originally established by Periyar E.V.Ramasamy Naicker, along with Philanthropists and educationalists residing in and around Erode. The Government initially allotted 12 acres of land for establishment of the College. Subsequently, pursuant to the request made by Mahajana School Board, another extent of 38 acres of land was allotted by the then Madras Presidency at a nominal cost. Mahajana School Board after taking over 50 acres of land allotted by the then Government of Madras Presidency, established a college. The college was declared open on 10 August 1958 by the then Minister for Education and Finance, Government of Madras Presidency. The College was affiliated to Bharathiyar University.

(b) The University Grants Commission issued certain directions for constituting Managing committee for the colleges affiliated to the Universities and governed by the UGC regulations. Mahajana Schools Board therefore established Chikkaiah Naicker College Managing Board.

(c) The Chikkaiah Naicker College Managing Board was

registered as a society under the provisions of the Tamil Nadu Societies Registration Act.

(d) There were allegations of mismanagement of the educational society. The society was not functioning effectively and annual returns were not filed.

(e) Bharathiyar University in the meantime appointed a five member Committee to inspect the college. The inspection team inspected the college on 19 July 1989 and 9 August 1989 and submitted its report to the University. The Committee informed the University that the college has not been functioning in accordance with the rules and regulations, and recommended for taking appropriate action.

(f) The District Registrar, Erode, initiated proceedings under Section 44(2) of the Tamil Nadu Societies Act for non filing of returns under Section 16(3) of the Act for a consecutive period of three financial years. Notices were issued on 30 June 1994. The Registrar published a notification in the Tamil Nadu Government Gazette dated 28 December 1994 under section 44(2) of the Tamil Nadu Societies Registration Act, declaring that after the expiry of three months from the date of publication, the name of the society would be struck off from the Register of Societies and it would be dissolved. There was no action taken by the members of the society to respond to the notices issued by the Registrar.

(g) The Registrar issued a final order dated 3 May 1995 under Section 44 of the Tamil Nadu Societies Registration Act declaring that the society by name Chikkiah Naicker College Managing Board is deemed to be dissolved from the date of publication of the declaration in the Tamil Nadu Government Gazette, viz., 3 May 1995.

(h) The close relatives of the Members of the Chikkiah Naicker College Managing Board having found that it would not be possible to revive the Society, constituted another Society by name Chikkiah Naicker Education Board and it was registered on 6 July 1998. The Board appears to have convened a meeting on 29 July 1998 and it was resolved to authorize the President to take steps to transfer the Chikkaiah Naicker College Managing Board with its assets to the newly constituted society. The Society, on 30 July 1998, passed a special resolution appointing Thiru.R.Aswath, who is stated to be the son of a member of the society, as its Secretary. Thiru.R.Aswath, made an application on 5 August 1998, in terms of Section 7 of the Tamil Nadu

Private Colleges Regulation Act, seeking transfer of the educational agency. The Government rejected the said application.

(i) In the meantime, the Education Department issued a show cause notice on 18 September 1998 as to why the administration of the college should not be taken over.

(j) The Government by order in G.O.Ms.489 Higher Education (D2) Department, dated 19 December 2000, appointed a Special Officer to the college in terms of Section 14-A of the Tamil Nadu Private College Regulation Act for the administration of the college for a period of one year or till the reconstitution of the management, in accordance with law. The college administration filed a suit in O.S.No.532 of 1998 before the Principal Sub Court, Erode, questioning the show cause notice.

(k) The college administration filed another suit in O.S.No.533 of 1998 for a judgment and decree to permit Thiru.Aswath to act as the Secretary of the society and to perform all the lawful duties in the said capacity. Though interim orders were granted initially, all those orders were vacated subsequently. The plaintiffs filed CRP Nos.3197 and 3198 of 2000 before the High Court challenging the order vacating the interim orders. The revision petitions were dismissed as withdrawn by order dated 12 February 2001.

(l) The Chikkaiah Naicker Education Board, represented by Thiru.Aswath filed a Writ Petition before this Court in W.P.No.5272 of 2001 questioning the Government Order dated 19 December 2000 appointing the Special Officer to the College. The Writ Petition was disposed of by order dated 5 February 2002 with a direction to the Regional Joint Director of Collegiate Education, Coimbatore, to consider the application for transfer of the education agency in accordance with law. The Regional Joint Director of Collegiate Education considered the application pursuant to the order passed by the High Court and by order dated 14 March 2002, rejected the request made by Thiru.R.Aswath.

(m) The order passed by the Regional Joint Director of Collegiate Education, dated 14 March 2002, was challenged in W.P.No.11019 of 2002. There was another Writ Petition filed by Thiru.T.A.Shanmuga Sundaram, claiming himself to be the Secretary of Chikkaiah Naicker Education Board in W.P.No.4399 of 2001, challenging the order passed by the Inspector General of Registration dated 7 December 2000, refusing to transfer the management of the College.

(n) The Government in the meantime took over the management of the college for a further period of two years w.e.f. 19 December 2012 as per G.O.Ms.336, Higher Education D-2 Department, dated 18 December 2002. The said order was challenged by Chikkiah Naicker Education Baord, represented by its Secretary R.Aswath, in W.P.No.448 of 2003. The Government in the meantime, extended the management of the college by the Special Officer for another two years. The said order dated 30 November 2004 was questioned by Thiru.R.Aswath, in W.P.No.37048 of 2004. The Writ Petitions were all dismissed by the learned Single Judge by way of a common order.

(o) The common order passed by the learned single Judge was challenged before the Division Bench in W.A.No.1670 to 1672 of 2005. The Division Bench in its judgment dated 12 January 2009 recorded a factual position that in view of the order passed by the Registrar of Societies, the Society is not in existence. The Division Bench observed that cancellation of the Society by the Registrar of Societies has become final. The Division Bench finally dismissed the appeals and confirmed the order passed by the Government appointing a Special Officer for the management of the college.

(p) Thiru.R.Awath, Secretary of Chikkiah Naicker Education Board in a dramatic manner, left the scene and in his place, Tmt.J.Saradha @ Baby, styling herself as a Committee Member of Chikkiah Naicker College Managing Board, emerged and submitted a representation to the Registrar of Societies to exercise the right under Section 41 of the Societies Registration Act, 1975. She also filed a Writ Petition in W.P.No.4255 of 2012 to direct the Government to consider the representation in accordance with the provisions of the Tamil Nadu Societies Registration Act.

(q) The Government considered the representation pursuant to the order dated 30 March 2002 in W.P.No.4255 of 2012 and rejected the request of Tmt.J.Saradha @ Baby for revival of the society. The order passed by the Government dated 28 August 2012 was challenged before the writ court in W.P.No.31799 of 2012. The respondent herein prayed before the writ court to quash the order passed by the Government and thereafter to give exemption under Section 54 of the Act for exercise of its right under Section 39, to pass a resolution for the purpose of dissolving the society and merge it with another society. The learned Single Judge without considering the possible effect of the said order, in case the prayer is allowed, directed the appellants to consider the question of exempting the society from all or any of the provisions of section 54 of the Act. The order is under

challenge at the instance of the State.

The following are the oral submissions:

3. The learned Additional Advocate General representing the appellants contended that the society was declared as a defunct society and a declaration to that effect was published in the gazette on 3 May 1995. Section 44(5) of the Act gives right to the society or its members to approach the Inspector General of Registration or the Government, as the case may be, within the statutory period to set aside the order striking off the name of the society. According to the Additional Advocate General, no such application was made within the statutory period. The learned Additional Advocate General contended that the so called erstwhile member of society is not entitled to invoke Section 54 of the Act for exemption. It is the contention of the learned Additional Advocate General that only a live society can apply for exemption under Section 54 from the provisions of the Act. The learned Additional Advocate General took us through the earlier proceedings and contended that it was only to grab the 50 acres of land given by the Government and to take over the college, the Writ Petition was filed for exemption. The learned Additional Advocate General contended that the earlier legal proceedings challenging the orders, taking over the management have become final. The society formed by Thiru.R.Aswath wanted to take over the assets. Since Thiru.R.Aswath and his society failed in the attempt, the first respondent has come into the picture, at his instance for the purpose of reviving the society with the sole aim of transferring the assets to the newly formed society. The learned Additional Advocate General finally contended that the order, in and by which the name of the society was struck off, has become final, as there was no appeal within the period of limitation.

4. The learned Senior Counsel for the first respondent contended that the application filed by the respondent is maintainable under Section 44(6) of the Tamil Nadu Societies Registration Act. According to the learned Senior Counsel, the fact that litigations were filed earlier challenging the taking over of the management by the Government by Thiru.R.Aswath and formation of another society and its request to transfer the assets would not dis-entitle a member of the erstwhile society for revival of the society which was declared as a defunct society. The learned Senior Counsel therefore contended that the Writ Court was right in directing the authorities to consider the matter.

5. The learned counsel for the second respondent contended

that the order passed by the Registrar under Section 44(4) of the Act 27/1995 has become final. According to the learned counsel, the first respondent, with a view to overcome the period of limitation, submitted a representation in 2012 and by challenging the order of rejection, indirectly challenged the very order passed by the Registrar, long after the period of limitation. According to the learned counsel, the college is now managed by the Special Officer appointed by the Government. Thiru.Aswath, who floated another society has been making every attempt to grab the land owned by Chikkiah Naicker College Managing Board, which was given by the Government. The learned counsel contended that the learned Single Judge without considering the background facts, allowed the Writ Petition and the order would enable the land grabbers to revive the society, which has already been struck off, in spite of the expiry of the period of limitation.

6. We have perused the file produced by the appellants and the entire materials available on record.

Discussion and conclusion are as follows:

7. The society by name Chikkiah Naicker College Management Board was registered as a society under the Societies Registration Act. The predecessor-in-interest of the society was given 50 acres of land by the then Tamil Nadu Government for establishment of the college. The college was established by late Thiru.Periyar E.V.Ramasamy Naicker, and many other philanthropists and educationists, residing in and around Erode. The mismanagement of the society appears to be the reason for the non filing of returns consecutively for more than three years.

8. The Registrar of Societies, initiated action under Section 44 of the Tamil Nadu Societies Registration Act, treating Chikkiah Naicker College Managing Board as a defunct society. The Registrar issued notice to the Managing Board on multiple occasions. There was no response. The Registrar therefore issued a final notice dated 30 June 1994 indicating that action would be taken for non filing of returns under Section 16(3) of the Act for a consecutive period of three years. Still there was no response from the society. The Registrar therefore published a notification under Section 44(2) of the Act in the official gazette on 28 December 1994 to the effect that from the date of publication, the name of the society would be struck off from the Register of Societies and that the registered society would be dissolved. There was no action taken by the society even thereafter. The Registrar

therefore passed an order striking off the name of the society. The Registrar published a notification in the Tamil Nadu Gazette on 3 May 1995 under Section 44(4) of the Tamil Nadu Societies Registrar Act, 1975, indicating that the name of the society is struck off from the Register of Societies and it is deemed to be dissolved from the date of publication in the gazette. The order passed under Section 44(4) of the Act has become final. There was no challenge to the declaration at any point of time.

9. The management of the college was taken over by the Government. The Writ Petitions challenging the action taken by the Government were all dismissed. The related appeals were also dismissed. The issue regarding taking over the management by the Government has therefore become final.

10. While so, Tmt.J.Saradha @ Baby claiming herself to be a committee member of Chikkiah Naicker Education Board, filed a Writ Petition in W.P.No.31799 of 2012. The Writ Petition was not against the order declaring the society as defunct or challenging the order striking off of the name of the society from the Register of Societies. It was a simple writ petition challenging the order passed by the Government rejecting the request for giving relaxation from the provisions of the Societies Registration Act.

11. The real motive in filing the Writ Petition is evident from the affidavit filed in support of the Writ Petition in W.P.No.31799 of 2012.

12. According to the deponent in W.P.No.31799 of 2012, another society by name Chikkiah Naicker Education Board was constituted by Thiru.R.Aswath, son of Thiru.G.Rajasekar, who claimed to be the former secretary of Chikkiah Naicker College Managing Board. The society was registered under the Tamil Nadu Societies Registration Act. The members of Chikkiah Naicker Education Board under the leadership of Thiru.R.Aswath convened a special meeting on 29 July 1998, to transfer the educational agency of Chikkaiah Naicker College to the Chikkaiah Naicker Education Board. In the said meeting, the committee appointed Thiru.R.Aswath as the Secretary of the College. It is a matter of record that thereafter Thiru.R.Aswath filed series of Writ Petitions for taking over the management of the college and the Chikkiah Naicker College Managing Board. However, he was not successful.

13. The first respondent seeks an order for exemption from the provisions of the Tamil Nadu Societies Registration Act solely for the purpose of handing over the assets of Chikkiah Naicker College Management Board to the newly formed society by name Chikkiah Naicker Education Board.

14. The first respondent in the affidavit filed in support of the Writ Petition, clearly admitted the factum of the society declared as defunct. Even after saying so, there was no challenge to the order declaring the society as defunct and striking off its name from the Register of Societies.

15. The learned Senior counsel for the respondent contended that the respondent was right in filing the Writ Petition for an order under Section 44(5)(b) of the Tamil Nadu Societies Registration Act, 1975. There is absolutely no merit in the said contention.

16. Section 44(5) of the Act reads thus :-

(5) (a) If a registered society or any member or creditor thereof feels aggrieved by the name of the registered society having been struck off the register, such registered society, member or creditor may, within such period as may be prescribed from the date of the publication in the Tamil Nadu Government Gazette of the notice of striking off the name of the registered society, appeal (i) where the name of the registered society is struck off by the Inspector - General of Registration, to the Government ; (ii) in any other case, to the Inspector-General of Registration. (b) The Government or the Inspector-General of Registration on being satisfied that the registered society was, at the time its name was struck off, carrying on business or in operation or otherwise that it is just and equitable that the name of the registered society be restored to the register, may order such restoration.

17. The question of restoration of the name of the society would arise only in case the application is filed within the statutory period from the date of publication in the Tamil Nadu Government Gazette, striking off the name of the society from

the Register of Societies. The entire provisions have to be read together. It would not be possible to take sub clause (b) of Sub Section (5) out of context to make it appear as if the statute permits an order for restoration of the name of the society, even after the period of limitation. The question of passing orders for restoration of name would arise only in case a valid application was made before the Competent Authority within the period of limitation, prescribed under Section 44(5)(a) of the Act and rules made thereunder. Since no such application was made within the period of limitation, the first respondent has no justifiable claim for restoration of the registration of the society.

18. The learned single Judge without discussing the scope and ambit of Section 54 of the Act, directed the Government to consider the application. Section 54 empowers the Government by general or special order to exempt from all or any of the provisions of the Act or from any rule made thereunder to any society. The question of passing an order for exemption would arise only in case there is an existing society whose name is live on the Register. There is no question of extending the provision regarding exemption under Section 54 to a society which was declared as defunct and whose name has already been struck off from the file. This material aspect was omitted to be considered by the learned single Judge.

19 (a) The Registrar of Societies under the Tamil Nadu Societies Registration Act, 1975, after issuing series of notices to the society, passed an order under Section 44(2) of the Act 27/1975 on 28 December 1994. The notification under sub Section (2) of Section 44 was published in the Tamil Nadu Government Gazette on 28 December 1994. Thereafter, final order was passed under Section 44(4) of the Act on 3 May 1995, striking off the name of the society from the Register of Societies. The notification was published in the Tamil Nadu Gazette on 3 May 1995.

(b) The Tamil Nadu Societies Registration Rules, and more particularly, Rule 38 provides that appeals under sub Sections (1) and (2) of Section 45 shall be preferred within a period of two months from the date of the order against which the appeal is made. The order in the present case was issued on 3 May 1995. The appeal against the said order ought to have been filed on or before 3 July 1995, under Section 45 of Act 27/1975. However, no such appeal was filed so far.

(c) The core question is whether the first respondent should be permitted to overcome the period of limitation by

entertaining the Writ Petition, challenging the order passed by the Government in a representation given for exemption, from the purview of the Societies Registration Act, without there being a challenge to the order dated 3 May 1995 within the statutory period.

(d) The first respondent instead of challenging the order dated 28 December 1992 or 3 May 1995, adopted a novel device for circumventing the period of limitation by giving a representation in 2012. The representation was rejected by order dated 28 August 2012. It was only the said order which was put in issue in W.P.No.31799 of 2012.

(e) It is trite that giving representation would not have the effect of extending the period of limitation, in case the remedy is barred under the provisions giving right to file appeal. The period of limitation cannot be extended by giving a representation or series of representations.

20. The Hon'ble Supreme Court in *State of Tripura vs. Arabinda Chakraborty and others*, 2014(5) Scale 335, made it very clear that by giving representation for years together, the period of limitation would not commence from the date on which the last representation was decided.

The Supreme Court said :-

11. ... Simply by making a representation, when there is no statutory provision or there is no statutory appeal provided, the period of limitation would not get extended. The law does not permit extension of period of limitation by mere filing of a representation. A person may go on making representations for years and in such an event the period of limitation would not commence from the date on which the last representation is decided.

14. ... It is a settled legal position that the period of limitation would commence from the date on which the cause of action takes place. Had there been any statute giving right of appeal to the respondent and if the respondent had filed such a statutory appeal, the period of limitation would have commenced from the date when the statutory appeal was decided.

21. The Hon'ble Supreme Court in *C.Jacob v. Director of Geology and Mining and another* [2008 13 Scale 434] considered the legal effect of a representation given after the period of limitation and observed that orders passed by the authorities in

such representations would not amount to condoning the delay in challenging the adverse order within the statutory period or a fresh cause of action to revive a stale claim which has already been barred by limitation. The Supreme Court said :

"7. Every representation to the government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the department, the reply may be only to inform that the matter did not concern the department or to inform the appropriate department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim.

8. When a direction is issued by a court/ tribunal to consider or deal with the representation, usually the directee (person directed) examines the matter on merits, being under the impression that failure to do may amount to disobedience. When an order is passed considering and rejecting the claim or representation, in compliance with direction of the court or tribunal, such an order does not revive the stale claim, nor amount to some kind of 'acknowledgment of a jural relationship' to give rise to a fresh cause of action."

22. The learned Single Judge without considering the entire background facts, entertained the Writ Petition in W.P.No.31799 of 2012 and issued a direction to the appellants to consider the case for relaxation from the provisions of the Tamil Nadu Societies Registration Act. By giving such direction, the learned Single Judge virtually permitted the first respondent to over come the order passed by the Registrar of Societies on 28 December 1992 and 3 May 1995. There is no question of setting aside the order striking off the name of the society from the Register by filing a representation and that too after a period of 17 years. This fundamental aspect was not considered by the learned Single Judge. The order is therefore bad in law.

23. The so called member of the Chikkiah Naicker College Managing Board by submitting a representation in 2012, made an

attempt to revive a stale claim. The office bearer of the society, formed with the sole purpose of grabbing the assets of Chikkiah Naicker College Managing Board, is conducting a proxy litigation. According to the second respondent, Thiru.Aswath who is the promoter of the newly formed society is behind the curtain. It is the case of the second respondent that the so called member of the Chikkiah Naicker College Managing Board who filed the Writ Petition in W.P.No.31799 of 2012 is actually dancing to the tune of Mr.Aswath and the whole drama is enacted to take over the valuable assets of Chikkiah Naicker College Managing Board, established by Thiru.Periyar E.V.Ramasamy Naicker. Even a very similar name is given to the newly constituted society to cause confusion.

24. The motive of the erstwhile member of the society in filing the Writ Petition is evident from the course of conduct adopted by her in connivance with the members of the other society for the sole purpose of taking over the assets of Chikkiah Naicker College Management Board which includes 50 acres of land given by the Government and a full-fledged college presently managed by the Special Officer appointed by the Government. There is no question of by-passing the provisions of the Statute by creating an artificial cause of action. The attempt made by the new society floated by Thiru.R.Aswath, to take over the management of the college was turned down by the Courts earlier. It was only to give life to a dead litigation, Tmt.J.Saradha @ Baby, claiming herself to be a Committee Member, initiated fresh proceedings, originally by giving representation, and thereafter, by challenging the order passed by the Government, rejecting the request for revival of the society.

25. The revival of the society is not for better management of the college or for preserving the assets of Chikkiah Naicker College Management Board. Even according to the deponent in W.P.No31799 of 2012, her primary purpose is to transfer the educational agency of Chikkiah Naicker College to Chikkiah Naicker Educational Board, which is altogether a separate entity. The Court cannot be a party to the fraudulent action initiated by those who have vested interest and a hidden agenda to grab the land allotted by the Government and an institution established by Late Thiru.Periyar E.V.Ramasamy Naicker.

26. The writ petition in W.P.No.31799 of 2012 was filed by Tmt.Saradha @ Baby in the name of the Society "Chikkaiah Naicker College Managing Board". She has no right to represent the Society whose name has already been struck off from the register maintained under the Tamil Nadu Societies Registration Act. The first respondent Society has no legal existence after the

publication of the declaration in the State Gazette on 3 May 1995. The writ petition filed in the name of a non-existing society should have been dismissed by the learned single Judge as not maintainable. The learned single Judge neither analysed the factual position nor the statutory frame work before directing the appellants to consider the request for granting exemption from the provisions of the Tamil Nadu Societies Registration Act.

27. There is no legal right to the erstwhile member of a defunct society to call upon the appellants to exempt the society from the provisions of the Act. Similarly, there is no corresponding duty to consider the claim in view of the finality attached to the declaration issued on 3 May 1995 under Section 44(4) of the Act. This jurisdictional issue, which would go to the root of the matter, was not considered by the Writ Court; resulting in the multiplication of litigation.

28. The Government considered the entire background facts and rightly rejected the representation submitted by the first respondent. The learned Single Judge without considering the factual situation and the statutory framework, allowed the Writ Petition filed by the respondent. The order is therefore unsustainable in law.

29. The order dated 11 December 2013 is set aside. The Writ Petition in W.P.No.31799 of 2012 is dismissed.

30. For the reasons aforesaid, we allow the writ appeal. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

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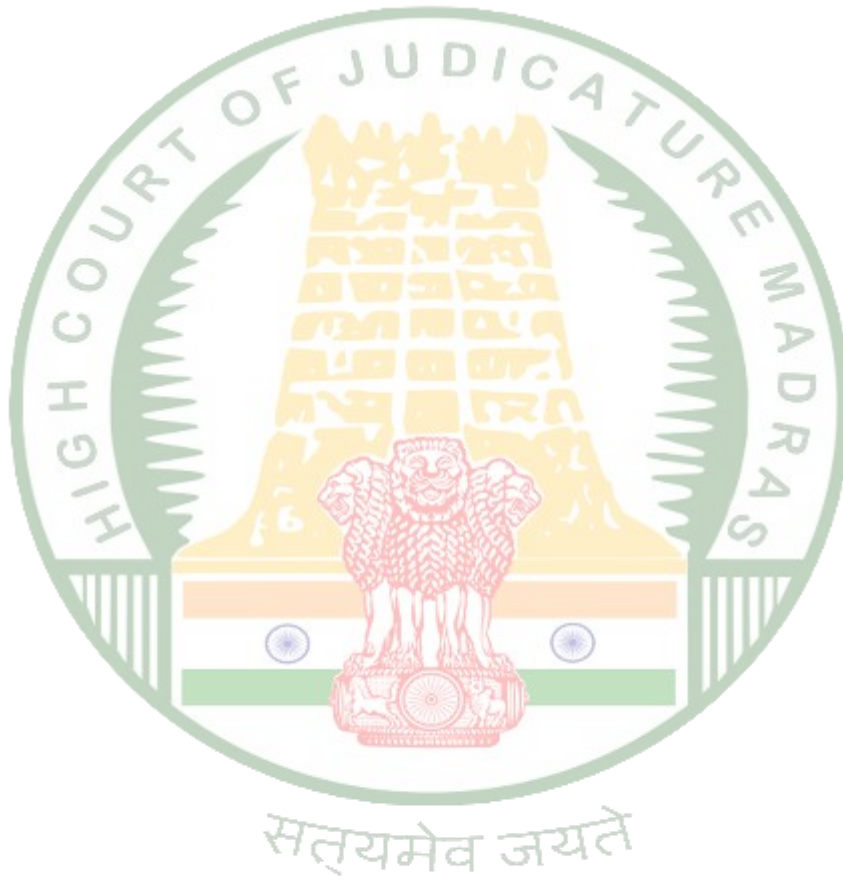
1. The Secretary to Government,
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2. The Inspector General of Registration,
Santhome High Road,
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3. The District Registrar,
Karungalpalayam, Erode

+lcc to M/s.R.Karthikeyan, Advocate, S.R.No.21474
+lcc to Mr.V.P.Sengottuvel, Advocate, S.R.No.21788
+lcc to Government Pleader in sr.no.21869

W.A.No.257 OF 2016

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