



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.02.2018
Delivered on : 21.03.2018

WEB COPY

CORAM :

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (PD) (MD) No.563 of 2017

1.AL.Veerappan
2.RM.Valliappan

... Petitioners/Plaintiffs

Vs.

1.The President,
Mathur Nagarathar Sangam.

2.The Secretary,
Mathur Nagarathar Sangam.

3.Agri. SP.Chockalingam

4.V.SP.N.Palaniappan

5.VE.N.Chockalingam

6.K.Deivarayan

7.SP.Yegappan

8.L.Chidambaram

9.TR.Valliappan

10.M.Subramanian

11.R.Ramasamy (Auditor)

12.Athappan Sundaram

13.The District Registrar,
Office of the District Registrar,
Muthupattinam,
Karaikudi & Taluk,
Sivagangai District.

... Respondents/Defendants

PRAYER: Petition filed under Article 227 of the Constitution of India, to direct the learned Principal District Munsif cum Judicial Magistrate, Karaikudi to expedite the trial in O.S.No.16 of 2016 on its file, within a time frame.

For Petitioners : M/s.Kalaiyarasi Bharathi
For R1 to R11 : Mr.A.N.Ramanathan
For R12 : No Appearance
For R13 : Mr.A.Thiyagarajan
Government Advocate

O R D E R

This Civil Revision Petition has been filed praying for expeditious disposal of the suit in O.S.No.16 of 2016 pending on the file of the learned Principal District Munsif-cum-Judicial Magistrate, Karaikudi within a time frame as fixed by this Court.

2. The suit in O.S.No.16 of 2016 has been filed by the petitioners as plaintiffs praying for the relief of declaration as against the respondents. The respondents, after entering appearance, have filed a written statement and without any reason, the trial court is adjourning the case at the instance of the respondents/defendants periodically and they filed one application after another application.

3. The grievance of the petitioners is that the learned Principal District Munsif-cum-Judicial Magistrate, Karaikudi is bound to dispose of the suit in O.S.NO.16 of 2016 and without doing so, the learned Munsif periodically granted adjournments at request made by the defendants. The petitioners further state that the learned Munsif has failed to appreciate the judgments of the Hon'ble High Court and the Apex Court regarding speedy disposal and speedy justice, which are fundamental right of the petitioners.

4. The petitioners further state that the term of the elected office bearers is only 3 years, in which, already 17 months has passed and only 19 months are left. The suit will become infructuous if the suit is pending for a long time and there is no other legal impediments to stall the proceedings and hence, they seek a direction to the court below for early disposal of the suit.

5. On perusal of plaint, it is seen that the revision petitioners herein are the plaintiffs and they have filed the suit in O.S.No.16 of 2016 for the relief of declaration declaring that the election conducted by Mathur Nagarathar Society and MKNPV Trust on 20.09.2015 is not valid and also for mandatory injunction for removing the names of the deceased members from the Mathur Nagarathar Society, to include the new members, for amending the bylaw, to produce the lists of members to the District Registrar and further mandatory injunction to conduct new election as per the amended bylaw.

6. On a perusal of written statement, it is seen that the defendants are the President, Secretary and the District Registrar of Karaikudi and 11 others and they have stated that when the plaintiffs have filed the suit for the abovesaid relief, Mathur Nagarathar Society and MKNPV Trust ought to have been added as parties. The other contention of the defendants are that there is no cause of action for the suit. There is no error or defect in the election that was conducted by the Society. The Mathur Nagarathar Society and MKNPV Trust are still functioning and the Mathur Nagarathar Society has registered as 3/1975. Further, the plaintiffs



have also signed a proceeding accepting the success of the third defendant and also the votes obtained by the defendants. There was no objection raised by the plaintiffs for objecting the election immediately after receipt of notice. Even when the successful members have entered into the office, no objection was made. Hence, the case of the plaintiffs in seeking such a relief is not maintainable. Further, the names of the deceased members were removed and new members have been included and hence, in that aspect also, no relief can be sought for by the petitioners.

7. In addition to the averments made in the written statement, the learned counsel appearing for the respondents 1 to 11 would mainly argue before this Court that the petitioners/plaintiffs themselves filed a petition in I.A. No. 318 of 2017 in O.S. 16 of 2016 calling for certain accounts and the defendants/respondents also filed a counter and after enquiry, the said Interlocutory Application was posted for argument.

8. Further, the arguments advanced by the learned counsel respondents 1 to 11 is that the supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution of India is confined only to see whether an inferior court or tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In the judgment reported in 2012(2)L.W 193(In K.Ponnammal and others Vs. V.Thayanban and others) it is observed as follows:

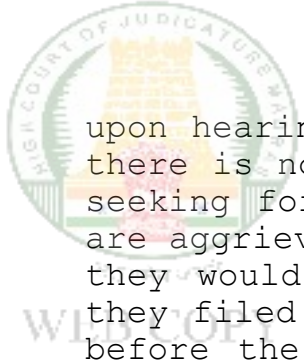
1. Power of judicial superintendence under Article 227 must be exercised sparingly only to keep the courts and tribunals within their bounds of authority and not to correct mere errors.

II. The supervisory power confers on the High Court under Article 227 is confined only to see whether an inferior court or tribunal is proceeded within its parameter and not to correct an error apparent on the face of the record.

9. Heard the learned counsel for the petitioners, the learned counsel for the respondents 1 to 11 and the learned Government Advocate appearing for the respondent No.13. This Court has perused the entire materials available on record.

10. The petitioners/plaintiffs approached this Court seeking a direction for speedy disposal of the suit. The said suit was filed for declaration declaring the election is not valid. In that event, the petitioners ought not to have accepted the election by giving their consent to the defendants for taking the office and they ought not to have filed a petition for the accounts, which is also pending.

11. If really the petitioners are aggrieved that the lower court is adjourning the case without any reason, they would have filed a petition before the same court. On perusal of records and



upon hearing the arguments advanced by both sides, it is clear that there is no petition filed by the petitioners before the said Court seeking for an order of speedy disposal. If really the petitioners are aggrieved with the election and sought for a declaratory relief, they would have approached the trial court in a proper way. When they filed an Interlocutory Application calling for account details before the trial court, which is pending for orders, filing of the present Civil Revision Petition invoking the jurisdiction of this Court under Article 227 of the Constitution of India is not proper.

12. In view of the above said findings and in view of the fact that the petitioners have remedy before the same court for speedy disposal, this Court is not inclined to issue a direction to the lower court. Accordingly, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Principal District Munsif cum Judicial Magistrate,
Karaikudi.
- 2.The District Registrar,
Office of the District Registrar,
Muthupattinam,
Karaikudi & Taluk,
Sivagangai District.

+One cc to Mr.AN. Ramanathan, Advocate, SR.No.56964
 +One cc to M/s.P.Kalaiyarasi Bharathi, Advocate, SR.No.45852
 +One cc to M/s.P.Kalaiyarasi Bharathi, Advocate, SR.No.57127
 +One cc to Mr.A.Thiyagarajan, Government Advocate, SR.No.57672

CM

RL/7c/4p/KK/SAR1/3/4/2018

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