

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 12141 of 2019

T.S. Ravichandran

... Petitioner

-vs-

1. The Registrar
Registrar of Societies, Chennai Central,
Bharathi Salai, Chennai - 600 005.
2. Vijayalakshmi Sivaramakrishnan
3. High Green Farms,
Rep.by S.Shanmugavadivel
2-A, Sadasivam Street,
Gopalapuram, Chennai - 86.
4. Sri Paduka,
Rep. by M. Muralidharan,
Flat 2-A, Block 3, Kences Enclave,
1, Ramakrishna Street, T. Nagar,
Chennai - 17.
5. Saroj Ramakrishnan
6. S. Srinivasan
7. Mudukkur-Maxworth Land Owners Association
(Reg. No. 137/1998 of Chennai Central,
Mummudi Kuppam Road, Vayalur P.O.
Sriperumbudur Taluk,
Kancheepuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to appoint the Election Officer and to conduct the Election for the Office Bearers of the Mudukur Maxworth Land Owners Welfare Association, Chennai (Reg.No. 137/1998) as per the Bye-laws of the Association.

For Petitioner : Mr. S. Gajendran

For Respondents: Mr. T.M. Pappiah
Special Government Pleader for R1
Mr. K. Venkatesan for R2 to R6
R7 served - No Appearance.

O R D E R

Heard Mr. S. Gajendran, Learned Counsel for the Petitioner, Mr. T.M. Pappiah, Learned Special Government Pleader for the First Respondent and Mr. K. Venkatesan, Learned Counsel for the Second to Sixth Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed for a direction to the Respondents to appoint an Election Officer and to conduct Election for the Office Bearers of the Mudukur Maxworth Land Owners Welfare Association, Chennai (Reg.No. 137/1998) as per the Bye-laws of the Association.

3. The First Respondent has filed a Counter Affidavit stating that the said society viz., Mudukkur Maxworth Land Owners Welfare Associations, submitted its annual returns only upto the year 2007-2008 and that the society has not filed annual returns from the year 2008-2009 till date. It is further informed that in accordance with the provisions of Sections 44 (3) and (4) of the Tamil Nadu Societies Registration Act, 1976, that society has been declared as defunct, which has been published in the Official Gazette on 23.04.2014, and consequently, that society cannot function to carry on any activities and stands dissolved. In the aforesaid circumstances, the question of conducting election to the said society does not arise.

4. In this context, it would be useful to refer to the dictum laid down by the Hon'ble Supreme Court of India in Director of Settlements, A.P. -vs- M.R. Apparao [(2002) 4 SCC 638], in which it has been held as follows:-

"17.One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the Court must come to the conclusion that the aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed. In other words, existence of a legal right of a citizen and performance of any corresponding legal duty by the State or any public authority, could

be enforced by issuance of a writ of mandamus. "Mandamus" means a command. It differs from the writs of prohibition or certiorari in its demand for some activity on the part of the body or person to whom it is addressed. Mandamus is a command issued to direct any person, corporation, inferior courts or Government, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. A mandamus is available against any public authority including administrative and local bodies, and it would lie to any person who is under a duty imposed by a statute or by the common law to do a particular act. In order to obtain a writ or order in the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition (Kalyan Singh v. State of U.P. [AIR 1962 SC 1183]). The duty that may be enjoined by mandamus may be one imposed by the Constitution, a statute, common law or by rules or orders having the force of law...."

Having regard to this legal position viz-a-viz the cogent reasons assigned by the Respondents expressing inability to accede to the claim made by the Petitioner to direct the Respondents to conduct election to the said society, this Court does not find any justification to entertain this Writ Petition in the exercise of the discretionary powers under Article 226 of the Constitution of India.

5. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Registrar
Registrar of Societies, Chennai Central,
Bharathi Salai, Chennai - 600 005.

+1cc to Mr.S.Gajendran, Advocate Sr.99853
+1cc to the Government Pleader Sr.99972

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