

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 16.12.2019

Coram

The Honourable Mr. Justice M.M. Sundresh
and
The Honourable Mr. Justice Krishnan Ramasamy

Original Side Appeal No. 371 of 2018
in
C.M.P. Nos. 16131 and 21315 of 2018

C.M.P. No. 19554 of 2018

1. Mr. Jaguar Thangam,
President, Film and Television Producers,
Guild of South India,
B1, Rams Flat, New No. 19 (Old No. 5)
Jagatheeswaran Street, T. Nagar,
Chennai - 600 0017.

...Appellant

Vs.

1. Film and Television Producers'
Guild of South India, rep. its Secretary M. Jambu,
B1. Rams Flat, New No. 19 (Old No. 5)
Jagadheeshwaran Street,
T. Nagar, Chennai - 600 017.
2. Mr. A. M. Rathinam
3. Ka. Kalaikottuthayam
4. Pa. Sampath Kumar
5. Mr. P. Duraisamy
6. Mr. M. Jambu
7. Mrs. Kuttu Padhmini
8. Mr. K. Nandagopal Chetty
9. Mr. R. Kamalanathan
10. Mr. G. Sekhar
11. Mrs. D. Vasanthi
12. Mr. T. Kulanchiappan
13. Mr. S. Mohammed Farook
14. Mrs. Madheshwari, S.
15. Mr. N. Pakkirisamy
16. Mr. Aranthanki Sankar
17. Mr. Ashok

18. Ghanshyam Hemdev
19. Mr. Mohammed Hidayuthallah
20. Mr.Madurai Selvam
21. Mr.P.Ranjithkumar
22. Mr.M.C.Sekar
23. Mr.PACV Ranganayakulu
24. Mr.S.Mathana Solamon
25. Mrs.R.Banuchitra

... Respondents

Appeal filed under Order XXXVI Rule 1 of Original Side Rules read with Clause 15 of the Letters Patent, against the fair and decreetal order dated 01.08.2018 made in O.A.No.708 of 2018 in C.S.No.512 of 2018 on the file of this Court.

For Appellant : Mr.AR.L.Sundaresan
Senior Counsel for
M/s. R.Maheswari
For Respondents 1-20 : Mr.G.Krishnamurthy
For Respondents 21 to 25 : Mr.I.Saddam Hussain

J U D G E M E N T

(Judgement of the Court was delivered by Krishnan Ramasamy,J.)

This Original Side Appeal has been filed against the order passed by the learned Single Judge of this Court, dated 01.08.2018 made in O.A.No.708 of 2018 in C.S.No.512 of 2018.

2. Mr.AR.L.Sundaresan, the learned Senior Counsel appearing on behalf of the appellant contended that, the present Appeal has been instituted on the ground that, by virtue of the impugned order, respondents 5, 6 and 8, who were already removed from the posts and primary membership of the Film and Television Producers' Guild of South India (henceforth, referred to as 'the Guild') have been permitted to discharge their duty as Treasurers/Secretaries, as per law.

3. However, when the matter is taken up for hearing, both the learned counsel for both the parties submitted that there was no election held for the past four years. Hence, they suggested now to appoint the Hon'ble Mr.Justice D.Murugesan, (Retired Chief Justice of Delhi High Court) and the Hon'ble Mr.Justice P.Shanmugam (Retired Judge, High Court, Madras) as ***Conveners** to monitor the entire election process and ensure that the election is conducted in a fair and free manner. At this juncture, Mr.G.Krishnamurthy, the learned counsel for the respondents 1 to 20 submitted that only the Treasurers are supposed to furnish records pertaining to the

income and expenditure of the Guild to the Auditor, who, in turn, is required to scrutinize the books of accounts and finalise the accounts and after such finalization, the same will be placed before the Annual General Body Meeting for the approval of the members of the Guild. In the present case, no such accounts were called for by the Treasurers and only the appellant furnished all the records to the Auditor of the Guild.

3.1 Therefore, the learned counsel would contend that the accounts already finalized by the Auditor for the past four years are required to be revised based on the records maintained by the Treasurers, for which, the Treasurers are ready to produce the same before the Auditor. The learned counsel would contend that without production of the records, which is available with the Treasurers of the Guild, accounts could not have been finalized for the past four years and the same can be finalized only after taking into consideration of the books of account to be furnished by the Treasurers.

4. We have considered the submissions of the learned counsel for both sides and also perused the materials placed before us.

5. In the light of the above, we deem it appropriate to issue following directions as the same would meet the ends of justice :-

i We hereby appoint the Hon'ble Mr.Justice D.Murugesan, (Retired Chief Justice of Delhi High Court) and the Hon'ble Mr.Justice P.Shanmugam (Retired Judge, High Court, Madras) as Observers, who shall observe the entire election process and ensure that the election is conducted in a fair and free manner.

ii) The appellant, first respondent and the Treasurer are directed to meet the learned Observers appointed by this Court and discuss about the conduct of the election subsequent to the finalization of the accounts in the manner stated below.

iii) The Observers are to receive the records pertaining to the Guild, which is said to have been pending for the past four years from the Treasurer and thereafter, forward the same to the Auditor of the Guild to scrutinize, who, in turn, if required, shall revise the audited accounts for the past four years, for which purpose, we direct the respondents, who is holding the post of Treasurer to produce the available records to the learned Observers appointed by this Court within a period of two weeks from the date of receipt of this order copy. As and when such records are received, the learned

Observers are to forward the same to the Auditor of the Guild within one week there from. The Auditor, on receipt of the records, shall scrutinize the same, and if required, shall file revised Annual Accounts within 30 days from the date of receipt of the records from the learned Observers.

iv) Thereafter, the Observers are to order for the conduct of election for the purpose of approval of the accounts for the year end 31.03.2019 and all other pending accounts for the past four years as stated by the appellant. Notice, in this regard, shall be sent under the name of the Secretary, after obtaining appropriate approval from the Observers.

v) The Observers are also order for conduct of the election of the Office Bearers in terms of Bye-laws of the Guild. In the meantime, if there is any dispute among the parties, the same shall be referred to the Observers and the decision of the Observers shall be final and both the parties shall abide by the same.

vi) As and when the election process is over, the Observers shall file a final report before the learned Single Judge of this Court, in connection with C.S.No.512 of 2008, within a period of two weeks therefrom.

vii) The Observers, if necessary, are permitted to get police protection from the Jurisdictional Police Station for the purpose of conducting the election in a fair and free manner, and the Inspector of Police, attached to the Jurisdictional Police Station is directed to provide police protection as requested by the Observers.

viii) We fix a sum of Rs.3,00,000/- as initial remuneration for each of the learned Observers and the Guild is directed to pay the said amount within a period of one week from the date of receipt of a copy of this order.

6. We dispose of the Original Side Appeal with the aforesaid direction. No costs. Consequently, the Miscellaneous Petition stands closed.

16.12.2019

For Being Mentioned

This matter having been listed on 13/01/2020 Monday Thirteenth day of January Two Thousand and Twenty under the caption "For Being Mentioned" in the presence of above said counsels in pursuance of earlier order dated 16/12/2019 this court made the following Order:

(Judgement of the Court was delivered by Krishnan Ramasamy, J.)

This Original Side Appeal has been listed today under the caption, "'For Being Mentioned'" at the instance of the learned counsel for both the parties.

2. The learned counsel for the Treasurers would contend that the books of accounts and other records are available only with the Office of the Guild, as the Guild is fully managed and controlled by the President and Secretaries. Therefore, he made a suggestion that, the Treasurers may be allowed to peruse the records and in this regard, Learned Conveners may facilitate the Treasurers from getting records from the Guild and in their presence, the Treasurers may be permitted to peruse the records and provide necessary inputs to the Auditor, so as to enable him to file a revised audit accounts, if required, for the past four years. The learned counsel further submitted that since the suit is C.S.No.512 of 2008, stood transferred to VI Additional Judge, City Civil Court, Chennai, and re-numbered as O.S.No.1603 of 2019, the learned Conveners may be directed to file a final report before the VI Additional Judge, City Civil Court, within a period of two weeks therefrom.

3. Heard the learned counsel for the parties. In view of the same, the inner para viz. 3.1 of para No.3 is modified and apart from that, inner para 3.2 has to be incorporated, which are as follows:

Para No.3 " "

3.1 Therefore, the learned counsel would contend that the accounts already finalized by the Auditor for the past four years are required to be revised based on the records maintained by the Treasurers, for which, the Treasurers are ready to produce upon perusal of the records before the Auditor and upon perusal of the records, the learned counsel would contend that without production of the records by the

Treasurers, accounts could not have been finalized for the past four years and the same can be finalized only after taking into consideration of the books of account to be furnished by the Treasurers.

3.2 The learned counsel further submitted that the accounts, which are stated to have been audited by the Auditor of the Guild may be placed by the appellant-Guild along with entire books of accounts and records for the past four years before the Learned Conveners and the Learned Conveners shall permit the treasurers to peruse the records in the presence of the Guild members, and upon perusal, the Treasurers shall provide his comments, if any, to the Auditor and the Auditor, upon receipt of the comments, shall furnish a revised accounts, if necessary for the past four years to the Guild.

4. Similarly, para No.5 of the order, dated 16.12.2019, is modified to the following effect.:-

Para No.5 :-

" In the light of the above, we deem it appropriate to issue following directions as the same would meet the ends of justice :-

i We hereby appoint the Hon'ble Mr.Justice D.Murugesan, (Retired Chief Justice of Delhi High Court) and the Hon'ble Mr.Justice P.Shanmugam (Retired Judge, High Court, Madras) as conveners, who shall convene the General Body Meeting for approval of account and to conduct election of office bearers in a fair and free manner.

ii) The accounts, which are stated to have been audited by the Auditor of the Guild may be placed by the appellant-Guild along with entire books of accounts and records for the past four years before the Learned Conveners and the Learned Conveners shall permit the treasurers to peruse the records in the presence of the Guild members, and upon perusal, the Treasurers shall provide his comments, if any to the Auditor. The Auditor, upon receipt of the comments from the

Treasurer, shall furnish a revised accounts for the past four years to the Guild.

iii) It is made clear that such comments to the Auditor shall be provided by the Treasurers within a period of one week from the date of perusal of records from the Guild and the Auditor, upon receipt of such comments, shall file a revised audit accounts, if any required to the Learned Conveners within a period of two weeks thereafter.

iv) Thereafter, Learned Conveners are directed to circulate the revised accounts among the General Body members along with notice convening the meeting for its approval in the General Body Meeting.

v) The learned Conveners are also ordered to conduct the election of the Office Bearers in terms of Bye-laws of the Guild. In the meantime, if there is any dispute among the parties, the same shall be referred to the Learned Conveners and the decision of the Learned Conveners shall be final and both the parties shall abide by the same.

vi) As and when the election process is over, the learned Conveners shall file a final report before the VI Additional Judge, City Civil Court, in O.S.No.1603 of 2019, within a period of two weeks therefrom.

vii) The Learned Conveners, if necessary, are permitted to get police protection from the Jurisdictional Police Station for the purpose of conducting the General Body Meeting of the election of Office Bearers in a fair and free manner, and the Inspector of Police, attached to the Jurisdictional Police Station is directed to provide police protection as requested by the conveners.

viii) We fix a sum of Rs.3,00,000/- as initial remuneration for each of the Learned Conveners and the Guild is directed to pay the said amount within a period of one week from the date of receipt of a copy of this order."

5. Insofar as para No.6 is concerned, the same shall remain unaltered.

6. Registry is directed to substitute the word 'Observers', with the word 'Conveners' wherever it occurs throughout the order, dated 16.12.2019 in O.S.A.No.371 of 2018 and after carrying the said correction, along with the aforesaid correction, as stated in para Nos.3 and 4 of this order (13.01.2020), shall issue a fresh amended copy. Registry is further directed to communicate a copy of this order to the VI Additional Judge, City Civil Court, where, the suit in O.S.No.1603 of 2019 is pending.

13.01.2020

For Being Spoken To

This matter having been listed on 05/03/2020 Thursday the Fifth day of March Two Thousand Twenty under the caption "For being Spoken to" in the presence of above said counsels in perusance of earlier order dated 13/01/2020 this court made the following order:

This matter is listed today 'for being spoken to'.

2. In view of the fact that there are certain typographical mistakes in the original order dated 16.12.2019 a further order has been passed on 13.01.2020 in the presence of the counsel coupled with the fact that the first order is yet to be released.

3. Thus, we direct the Registry to issue a fresh order.

Sd/-
Asst.Registrar (CCC)

/true copy/
Sub Asst. Registrar

sd

To

1.The Hon'ble Mr.Justice D.Murugesan
(Retired Chief Justice of Delhi High Court)
No.11-A M.D.Sitaraman Avenue
7th Cross Street
VGP Lay out
Injambakkam Chennai-600 115

2.The Hon'ble Mr.Justice P.Shanmugam
(Retired Judge High Court Madras)
Teynampet
Chennai-600 018

3.The VI Additional Judge
City Civil Court,
Madras

4. The Sub Assistant Registrar (Original Side),
High Court, Madras.

+1 cc to M/s.Dr.G.Krishnamoorthy Advocate sr105153
+2 ccs to M/s.R.Maheswari Advocate sr104963

Original Side Appeal No.371 of 2018

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