

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Original Side Appeal Nos.7 to 10 of 2018
&
C.S.No.777 of 2016

1.The Tamil Nadu Chemists & Druggists Association,
(TNCDA Rep.by its Honorary Secretary,
Having its office at D36, 8th Floor, 'D' Block,
Halls Towers, Halls Road,
Chennai - 600 008.

2.Mr.N.Anandan

...Appellants in
all the appeals

-vs-

1. M/s.Chemists and Druggists Association,
(Chennai District) (Reg.No.6/1994/1945),
Rep. By its Secretary Mr.Natarajan,
Having its registered office at No.6,
3rd Floor, Bhattad Towers,
No.30, West Cott Road,
Royapettah, Chennai - 600 004.

2. W.S.Mohankumar

The President,

M/s.Chemist & Druggists Association.

3. T.Natarajan

General Secretary,

M/s.Chemist & Druggists Association.

4. Thirulogachandar

Treasurer,

M/s.Chemist & Druggists Association.

...
Respondents in
all the appeals

C.S.No.777 of 2016
M/s.Chemists and Druggists Association,
(Chennai District) (Reg.No.6/1994/1945),
Rep. By its Secretary Mr.Natarajan,
Having its registered office at No.6,
3rd Floor, Bhattad Towers,
No.30, West Cott Road,
Royapettah, Chennai - 600 004.

...Plaintiff

Vs.

1. The Tamil Nadu Chemists and Druggists Association,
(TNCDA) Rep by its Secretary,
having its office at D36, 8th Floor, D Block,
Halls Towers, Halls Road,
Chennai - 08.
2. Mr.N.Anandan,
The Chairman,
Ad-Hoc Committee,
No.369, Konnur High Road,
Chennai -12.
3. W.S.Mohankumar,
The President,
Chemist & Druggists Association.
4. T.Natarajan,
General Secretary,
M/s.Chemist & Druggists Association.
5. P.Thirulogachandar,
Treasurer,
M/s.Chemist & Druggists Association.

...Respondents

Prayer in O.S.A.Nos.7 to 10 of 2018: Original Side Appeals filed under Order 36 Rule 1 of the O.S.Rules r/w Clause 15 of the Letters Patent praying to set aside the order dated 29.08.2017 made in O.A.No.936 to 938/2016 and Appln.No. 2900/2017 in C.S.No.777 of 2016.

Prayer in C.S.No.777 of 2016:

- (i) to declare the constitution of the ad-hoc Committee by the first defendant intimated by letter dated 05.08.2016 as null and void, unconstitutional and not binding on members of the plaintiff association.

- (ii) to declare that all acts, deeds and things done by the said ad-hoc committee appointed by first defendant intimated by the letter dated 05.08.2016 as null and void, unconstitutional and not binding on members of the plaintiff association.
- (iii) for grant of a permanent injunction restraining the defendants, their men, agent or any other person in any way interfering with the day to day administration of the plaintiff association.
- (iv) for grant of a permanent injunction restraining the defendants, their men, agent or any other person in anyway conducting election on 23.10.2016 or any other date pursuant to the appointment of the ad-hoc committee constituted by the first defendant intimated by letter dated 05.08.2016
- (v) to restrain the second defendant their men, agent or any other person in anyway using the name of the plaintiff association, their letter heads, seals and the premises of the plaintiff association claiming himself to be the Chairman of the ad-hoc committee which has been intimated by the first defendant by letter dated 05.08.2016.
- (vi) to pay the cost of the suit.

For appellants : Mr. Neethi Kumar (in all the appeals)

For Respondents : Mr. S.S. Rajesh for R1.
Mr. S.L. Sutarsanam for R2 to R4.
(in all the appeals)

JUDGMENT

(Judgment of the Court was delivered by T.S. Sivagnanam, J.)

These appeals are directed against the order dated 29.08.2017 made in O.A.No.936 of 2016 in C.S.No.777 of 2016. is directed against the order in O.P.No.148 of 2017 dated 05.07.2018.

2. We have heard Mr. Neethi Kumar, for the appellants in all the appeals and Mr. S.S. Rajesh, learned counsel for the first respondent and Mr. S.L. Sutarsanam, learned counsel for the first respondent and Mr. C.P. Hemkumar, learned counsel for second to fourth respondents.

3. The learned counsels submitted that a joint memo of compromise was entered into between parties and P. Thirlogachander, Vice President, W.S. Mohankumar, S.A. Ramesh, President are present in Court and identified themselves.

4. In the light of the above, the joint memo of compromise was placed on record and the terms of Joint Memo of Compromise are as follows:

"1. The appointment of 2nd appellant ad-hoc committee by the first appellant communicated through letter dated 05.08.2016 is hereby unconditionally withdrawn by the 1st appellant.

2. The erstwhile office bearers namely (i) W.S.Mohankumar - President (ii) T.Natarajan - General Secretary, (iii) Thhirulogachandar - Treasurer along with the Executive Committee members offered to resign their post, which was also accepted by the General Body and they are discharged of their duties with effect from 24.02.2019.

3. (i) Mr.S.A.Ramesh-President, (ii) G.Thiyagarajan-Secretary and (iii) Mr.Kumaran - Treasurer are elected by the General Body on 24.02.2019 shall hold office for a period of three years from 24.02.2019 till on or before 24.02.2022.

4. It is further resolved that the complaint given by the members of the first respondent society to the Registrar of Societies, on certain alleged irregularities are be hereby withdrawn. And all acts and deeds done by the previous office bearers shall stand ratified by the approval of its General Body on 24.02.2019. the copy of the resolution and this compromise shall be submitted to the Registrar of Societies to pass appropriate orders on the said complaints filed by G.Palani dated 25.09.2017 and 12.10.2017 and/or any other complaints.

5. The first appellant shall continue to recognize the District body i.e., the first respondent herein (M/s.Chemists and Druggists) as part of the 1st appellant and shall accept the nominated Executive Committee members as the 1st respondent Executive Committee. The parties hereto agree to confirm by the above joint memo of compromise and the same shall be recorded on the file of O.S.A.Nos. 7 to 10 of 2018 and C.S.No.777 of 2016 and necessary orders be passed to close the said civil suit in view of the settlement arrived through mediation and thus refund of Court fee.

6. The parties confirm that there is no rival claim against each other."

5. The joint memo of compromise dated 29.04.2019 is taken on record. The original side appeal and the civil suit stand disposed of in terms of the joint memo of compromise. The joint memo of compromise dated 29.04.2019 shall form part of the decree. No costs.

6. In the light of the compromise arrived at, the learned counsel for the appellant submitted that C.S.No.777 of 2016 itself can be disposed of. In the light of the consensus, the C.S.No.777 of 2016 stands disposed of. No costs. Registry is directed to call for the papers and put up the papers along with these appeals. The parties are entitled for refund of Court fee in accordance with law.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Sub Assistant Registrar
Original Side Section
High Court, Madras 104.

+2 CCS to Mr.S.S.Rajesh, Advocate sr 42429

Original Side Appeal Nos.7 to 10 of 2018

&
C.S.No.777 of 2016

VSNI (CO)
SP(13/06/2019)

WEB COPY