

IN HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	09/07/19
Pronounced On	04/10/19

CORAM
THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

O.S.A.Nos.452 & 476 of 2018
and
C.M.P.Nos.20739 & 22859 of 2018
and
C.M.P.Nos.3614, 3638, 5542 & 12352 of 2019

O.S.A.No.452 of 2018

Seshadri.S Appellant

vs

1.Andhra Social & Cultural Association,
No.22, Vijiyaraghava Road,
T.Nagar, Chennai - 600 017.
Rep. by its Hony. Secretary

- 2.B.Sridhar Reddy
- 3.Narasa Reddy Kondlapudi
- 4.Y.Vijaya Bhasakar
- 5.Ravi Babu
- 6.G.Subba Rao
- 7.C.Krishna Reddy
- 8.A.Jayachandra Reddy
- 9.V.Raguram Prasad
- 10.M.S.Jai Kumar
- 11.K.Srikar Reddy
- 12.K.Vijaya Sekhar Reddy
- 13.Yugesh Narayan Polisetty
- 14.Pellaru Sirnivasasula Reddy
- 15.L.Tirupathaiah
- 16.A.C.Subba Reddy
- 17.Keetireddy Siva Kumar Reddy
- 18.D.Jagannadha Raju
- 19.K.Daykar Reddy
- 20.Srikanth Yelamanchali
- 21.Meka Krishna Mohan
- 22.Polavarapu Subramanyeswara Rao
- 23.Katrangadda Nagabhushanam
- 24.Kalagara Nara babu
- 25.M.V.Ranga Prasad

26.B.Ramana Reddy
27.M.Guru Murthy

... Respondents

[R3 impleaded as party 3rd Respondent vide Court order dt.07.12.2018 in CMP.22031/2018 in CMP.20739/2018 in OSA 452/2018 .

[RR4 to 27 impleaded as party respondents vide Court order dt.01/02/2019 made in CMP.2667/2019 in OSA No.452/2018.

Prayer: Original Side Appeal filed under Order XXXVI Rule 2 of O.S. Rules r/w Clause 15 of the Letters Patent, to set aside the Judgment and Decree dated 24.07.2018 passed in Transfer C.S.No.170 of 2018 duly clarified by the order dated 28.09.2018 in Appln.No.6867 of 2018 in so far as the same relating to finding that EGM can decide as to whether the third parties who have become members under the children quota have to be regularized or removed and as to whether the existing members who have inducted third parties as members have to be proceeded departmentally or not.

For appellant : Mr.S.Thanka Sivan
For R1 : Mr.G.RM.Palaniappan
For R2 : No appearance
For R3 : Mr.P.L.Narayanan
For R4 to R27 : Mr.MA.Gouthaman

O.S.A.No.476 of 2018

M.S.Moorthy

... Appellant

सत्यमेव जयते
VS

1.Mr.Narasa Reddy Kondlapudi
2.The Andra Social and cultural Association,
Rep. by Hon. Secretary,
No.22, Vijayaraghavan Road,
T.Nagar, Chennai 600 017.
3.A.K.Subba Reddy

... Respondents

Prayer: Original Side Appeal filed under Order XXXVI Rule 9 of Original Side Rules r/w Clause 15 of the Letters Patent, to set aside the Decree and Judgment dated 24.07.2018 passed in C.S.No.758 of 2015.

For appellant : Mr.B.Ravi
 For R1 : Mr.P.L.Narayanan
 For R2 : Mr.G.RM.Palaniappan
 For R3 : Mr.Praveen for
 M/s. Rank Associates

C O M M O N J U D G M E N T

C.SARAVANAN, J.

By this common judgment these two appeals are being disposed.

2.These two appeals arise of out a common judgment and decree dated 24.07.2018 passed by the learned single judge in three suits as detailed below:-

Table: 1

O.S.A.No.476 of 2018			
Sl.No	Case No	Status of the Parties	
1	C.S.No.758 / 2015	Plaintiff	Defendants and their ranks
		Narasa Reddy Kondlapudi	1. Andra Social and Cultural Association. 2. M.S.Moorthy* 3. Dr.K.Subha Reddy**
2	O.S.A.No.476/2018	Appellant	Respondents
		M.S.Moorthy (2 nd Defendant)	1. Narasa Reddy Kondlapudi (Plaintiff) 2. Andra Social and Cultural Association (1 st defendant) 3. Dr.K.Subha Reddy (3 rd defendant)

O.S.A.No.476 of 2018	
*	Impleaded vide order dated 04.04.2018 in Appln.No.1547 of 2018.
**	Impleaded vide order dated 04.04.2018 in Appln.No.8399 of 2017.

Table: 2

No appeal has been filed against this C.S			
O.S. A	Case No	Plaintiff	Defendants and their ranks
Nil	C.S.No.278/2017	1. K.V.N.Prasad Reddy. 2. Lakshmi Krishna Prasad.	1. Andhra Social and Cultural Association. 2. Dr.K.Subha Reddy.

Table: 3

O.S.A.No.452 of 2018			
Sl.No	Case No	Status of the Parties	
		Plaintiff	Defendants and their ranks
1	Tr.C.S.No.170 of 2018 (formerly O.S.No.5459 of 2017 before the XVI Assistant City Civil Court, Chennai)	S.Seshadri	1. Andhra Social and Cultural Association. 2. B.Sridhar Reddy.*
2	O.S.A.No.452 of 2018	S.Seshadri	1. Andhra Social and Cultural Association. 2. B.Sridhar Reddy. 3. Narasa Reddy Kondlapudi.** 4. R4 to R27 ***

O.S.A.No.452 of 2018

* Impleaded vide order dated 04.04.2018 in Appln.No.2535 of 2018.

** Impleaded vide order dated 07.12.2018 in CMP.No.22031 of 2018 in
CMP.No.20739 of 2018 in O.S.A.No.452 of 2018.

*** Impleaded vide order dated 01.02.2019 in CMP.No.2667 of 2019 in
O.S.A.No.452 of 2018.

3.In O.S.A.No.452 of 2018, the appellant Mr.S.Seshadri has challenged judgment and decree dated 24.07.2018 passed in Tr.C.S.No.170 of 2018 (formerly O.S.No. 5459 of 2017 before the XVI Assistant City Civil Court) as modified by an order dated 28.09.2018 in Review Application No. 6769 of 2018 by the learned Single Judge.

4.Though C.S.No.665 of 2015 filed by one Chagarlamudi Gandhi also pertains to the same dispute, it was not clubbed for being taken up for hearing before the Learned Single Judge.

5.In O.S.A.No.476 of 2018, the appellant Mr.M.S.Moorty/2nd defendant in C.S.No.758 of 2015 has challenged judgment and decree passed in C.S.No.758 of 2015.

6.Since some of the parties to the suits/appeals are common but their ranks differ in the suits and in these appeals, for the sake of clarity we shall be referring to their names to avoid confusion.

7.All the above mentioned three suits were filed by the members the Andhra Social and Cultural Association. Andhra Social and Cultural Association is a society registered under the provisions of the Tamil Nadu Societies Registration Act, 1975.

8.For the sake of brevity, Andhra Social and Cultural Association shall be referred to as

"Association/Club" interchangeably. The said Association runs a cultural club in the city of Chennai for its members sharing common cultural and linguistic background.

9. Dispute arose between the parties on account of certain events surrounding bye-laws No.5(n) of the Association/Club and on account of induction of 89 persons as members at a concessional membership joining fee by 45 parent members. Bye-law No. 5 (n) of the Association/Club allows a parent member (regular member) of the club to nominate his son or son-in-law to be admitted as a regular members on payment of 1/3rd of the prevailing fees. The said clause reads as under:-

5. Enrolment of Members :

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)
- (h)
- (i)
- (j)
- (k)
- (l)
- (m)

(n) Admission of Member's Relatives :

Member's Children son or son-in-law (one only) will be admitted to the Membership of A.S.C.A. subject to approval of the Management Committee and upon payment of 1/3 of the Membership fees prevailing of at that time of admission.

10. The Management of the Association/Club found that about 45 such parent members had nominated about 89 persons who were neither their sons nor son-in-laws and were made as members of the Club at a concessional fee of 1/3rd of the normal fees between 1997-2015 contrary to bye-law No.5(n) with connivance of the office bearers of the club over a period of time and thereby caused an estimated loss of Rs.90 lakhs to the said Association/Club.

11. In a meeting held on 05.10.2014, the then Secretary of the club informed the General Body of members regarding large-scale misuse of the bye-laws by some of the members and the past officer bearers of the club by inducting these 89 persons contrary to bye-law No 5 (n) of the Association.

12. It was therefore decided that steps should be taken to proceed against them under the bye-law. This decision was circulated among the members of the Association.

13. Therefore, a Scrutinising Committee was constituted on 05.10.2014 in the 62nd Annual General Meeting of the Association/Club to look into the irregularities committed by the office bearers of the Association, by 45 members in admitting 89 persons as members who were not eligible to be admitted against children's quota. The Scrutinising Committee submitted a report on 05.06.2015.

14. Recommendations of the Committee were as follows:-

We recommend the following course of action which may be initiated against the erring members and their beneficiaries and connected persons subjected to the concurrence of the members at the EGM.

- i. To Remove both parent as well as beneficiary and initiate appropriate actions on those members who have conspired to misuse the aforementioned facility.
- ii. To suspend for 6 years, the proposer, seconder and Members of the scrutinizing committee, President and Secretary who were responsible for approving the above false applications and also to remove both parents and beneficiary from the Membership of ASCA.
- iii. To Regularize the erring members by collecting the differential Admission Fee from the beneficiaries as per the prevailing admission fee structure or

any other proposal from EGM and debar them from contesting to the post of office bearers/Trustees to ASCA for a period of 6 years commencing from the Ensuing AGM.

- iv. To consider any other valuable and fair action proposal deemed fit by the Members at the ASCA EGM in the long Term interest of our Associations.

15. In the so called Extraordinary General Body Meeting held two days later on 07.06.2015, it was resolved to remove all the 134 (45+89) members. It may be mentioned that the bye-laws contemplates 21 days clear notice to the members for holding Extraordinary General Body Meeting of the Association/Club. Bye-law No.18 read as under:-

18. EXTRA-ORDINARY GENERAL BODY MEETING:-

- (1) The Executive Committee may at any time call an Extra-Ordinary General Body Meeting of the Association by giving 21 days notice to the members providing time and the manner for an Annual General Body Meeting.
- (2) The Executive Committee shall call such meeting within thirty days from the date of receipt of a requisition in writing from not less than 1/10th of the members eligible to attend and vote in General Body Meeting of the Association.
- (3) The Provisions contained supra for an Annual General Body Meeting of the Members shall apply mutual mutandies to and Extra-Ordinary General Body Meeting.
- (4) If the Extra-Ordinary General Body Meeting is not called in accordance with such requisition, within the time prescribed above the requisitions may summon such a meeting themselves and elect one among themselves as the Chairman of the Meeting.

16.Thus, so called Extraordinary General Body Meeting of the members held on 07.06.2015 pursuant to the finding of the Scrutinising Committee on 05.06.2016 itself prima facie appears to be improper and contrary to byelaws of the Association as mandatory notice for such meeting was not given.

17.Thereafter, Mr.Narasa Reddy Kondlapudi who was issued with a show cause notice dated 22.07.2015, in his reply dated 28.07.2015, admitted that he sponsored one Ramesh Kumar Reddy by declaring him to be his son, who was not his son.

18.Based on the aforesaid explanation, Mr.Narasa Reddy Kondlapudi's membership was also allegedly terminated on 17.08.2015. This was challenged by Mr.Narasa Reddy Kondlapudi in C.S.No.758 of 2015. In C.S.No.758 of 2015 the said Narasa Reddy Kondlapudi prayed for the following relief:-

- a) For a declaration declaring that the notice dated 04.05.2015 calling for convening of Extraordinary General Body Meeting and the resolution alleged to have been passed in the Extraordinary General Body Meeting as null and void;
- b) For a declaration declaring the termination Letter dated 17.08.2015 alleged to have been issued in furtherance to the resolutions passed in the Extraordinary General Body Meeting dated 07.05.2015 as null and void,
- c) For a declaration declaring the resolutions alleged to have been passed in the Extraordinary General Body Meeting held on 07.06.2015 resolving to permanently remove the parent members and the members who were admitted under Children's Quota alleging irregularities as null and void;

d) For a permanent injunction restraining the defendant, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, from in any manner, whatsoever in implementing the resolutions purported to have been passed in the meeting held on 07.06.2015;

e) For a permanent injunction restraining the defendant, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, from in any manner, whatsoever in implementing the Membership Termination of the plaintiff and thereby preventing the plaintiff from using the club facilities in the defendant's Association.

f) For cost of the suit; and

g) Pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

19. In the said suit, initially following applications were filed by the Narasa Reddy Kondlapudi:-

Suit No	Application No	Applicant	Prayer
C.S.No.758 of 2015	O.A.No.1001 of 2015	Narasa Reddy Kondlapudi	To grant an order of Interim injunction restraining the respondent/defendant, their man, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, from in any manner, interfering with the applicant/plaintiff from using the club and its facilities and to take part in the affairs of the Club activities, pending disposal of the suit in C.S.No.758 of 2015.
	A.No.6210 of 2015	Narasa Reddy Kondlapudi	To grant an order of stay of all further proceedings in pursuance of the resolutions passed on 07.06.2015 in the Extraordinary General Body Meeting held on 07.06.2015 including the termination of the plaintiff, pending disposal of the suit in C.S.No.758 of 2015.

20. Similarly, another member namely Mr. Chagarlamudi Gandhi also filed C.S.No.665 of 2015 before the Original Side of this Court and challenged the termination of his membership. Though details of C.S.No.665 of 2015 are not available, it is evident by an order of interim injunction dated 23.11.2015, the court permitted the plaintiff Mr. Narasa Reddy Kondlapudi in C.S.No.758 of 2015 (O.A.No.1001 of 2015 & A.No.6210 of 2015 in C.S.No.758 of 2015) and the said Chagarlamudi Gandhi the plaintiff in C.S.No. 665 of 2015 (O.A.No.842 of 2015 & A.No.5418 of 2015 in C.S.No.665 of 2015) to continue to enjoy all the privileges of the member of the association without voting rights.

21. Meanwhile, certain other developments had taken place. In the 63rd Annual General Body Meeting of the Association/club the earlier decision taken in the Extra General Body Meeting on 07.06.2015 was sought to be approved on 25.10.2015.

22. Agenda No.2 for the Meeting as recorded in the Minutes of Meeting of the 63rd Annual General Body Meeting held on 25.10.2015 duly signed by the Dr.K.Subha Reddy reads as under:-

Agenda No.2: To approve and adopt the Minutes of the EGM held on 07.06.2015.

President read the agenda to approve and adopt the minutes of the Extra General Body Meeting held on 07.06.2015 and informed that copies of the minutes attached in AGM Report was circulated to all members well in advance and it was taken as read by all members present.

Sri.K.Ranga Reddy [MR1041], made a statement that in the EGM Minutes the consolidated statement was given about children quota membership scrutiny report with break up details. However, the details were not given at the time of EGM. Vice President clarified that Secretary clearly informed the members present at the EGM that only preliminary scrutiny details were presented and it should be further verified before implementation.

"Resolved unanimously that the minutes of the EGM held on 07.06.2015 be and hereby approved and adopted"

Proposed by : Sri.Sarath Babu

Seconded by : Sri.Adi Narayana Reddy

23. It was however shown as having signed on 14.10.2016. Thus, the so called resolution dated 25.10.2015 as having signed and circulated on 14.10.2015 shows manipulation of records.

24. On the same day i.e on 14.10.2016, a notice was purportedly issued by the Secretary of the Club calling for holding the 64th Annual General Body Meeting of the members on 13.11.2016. The agenda for the proposed Annual General Body Meeting were as follows:-

- i. To approve and adopt the minutes of the 63rd Annual General Body Meeting held on 25th October 2015.

- ii.To approve and adopt Hony.Secretary's Annual Report for the financial year 2015-16.
- iii.To approve and adopt audited accounts and auditor's report for the financial year ending 31st March, 2016.
- iv.To consider and approve the Revenue and Capital Budget for the financial year 2016-17.
- v.To appoint statutory auditors for the financial year 2016-17 and to decide their remuneration.
- vi.To consider proposed amendments proposed in by-law and approval.
- vii.To consider and pass a resolution with respect to disputed children Quota Membership.
- viii.To consider and pass a resolution with respect to members reinstated against the bylaws of ASCA.
- ix.To consider and approve any other matter with the approval of the chair.

25.On the same day i.e on 14.10.2016, another show cause notice was also issued to the plaintiff in C.S.No.758 of 2015 (K.Narasa Reddy Kondlapudi) in his capacity as the Ex. President of Andhra Social and Cultural Association to show cause why action should not be taken against him. There were doubts as to what transpired in the meeting held on 13.11.2015.

26.At that stage the second mentioned suit in C.S.No.278 of 2017 was filed by the K.N.V.Prasad Reddy and Lakshmi Krishna Prasad in February 2018 for the following reliefs:-

- i. For a declaration declaring that the notice dated 14.10.2016 calling for convening of Annual General Body Meeting and the resolutions alleged to have been passed in the Annual General Body Meeting as null and void;
- ii.For a permanent injunction restraining the defendant*, their men, servants, agent or agents or any person or persons

acting through or under them or for and on behalf of them, from in any manner, whatsoever in furtherance of the meeting conducted pursuant to the notice dated 14.10.2016 and the resolutions purported to have been in the meeting on 13.11.2016;

iii. For a declaration declaring the resolution alleged to have been passed in the meeting on 13/11/2016 resolving to regularize the membership of members admitted under Children's Quota by collecting a sum of Rs.1,50,000/- plus applicable service taxes in respect of members, who have already been admitted and using the facility as null and void;

iv. For a permanent injunction restraining the defendant*, their office bearers, person or persons employed or working through or under them or acting for and on their behalf, from in any manner, whatsoever, interfering with the right of the plaintiffs to utilize the facilities of the club as Member;

*The Association/Club.

27. These plaintiffs alleged that there were a lot of commotions in the meeting held on 13.11.2016 as the accounts were incomplete and therefore resolution could not be passed in respect of certain matters as only a handful of members were present after the lunch session.

28. The plaintiff's in C.S.No.278 of 2017 alleged that on 28.11.2016 a notice was allegedly affixed on the notice board of the Association/club wherein it was conveyed that in the 64th Annual General Body Meeting held on 13.11.2016, it was resolved by the majority of the members present in the meeting to amicably settle the prolonged issue of misuse of the children quota of membership as follows:-

"To regularise the membership of faulty members of the children Quota by collecting a sum of Rs.1,50,000/- plus service tax as applicable, irrespective of the date of joining towards regularisation charges in one lump sum, or not before 31.12.2016, without further extension of time and the members, who have filed suits can also

avail the scheme regularisation of membership and no action to be taken on the parent members”.

29.The plaintiffs in C.S.No.278 of 2017 apparently sent a representation to the club/Association vide letter dated 5.12.2016 stating that as per byelaw No.7 membership cannot be terminated in the guise of regularisation in the light of the provisions of the bye-laws and in view of the pendency of C.S.No. 758 of 2015 and 665 of 2015. In the above suit the plaintiffs filed following applications:-

Suit No	Application No	Applicant	Prayer
C.S.No.278 of 2017	O.A.No.392 of 2017	Mr.K.N.V. Prasad Reddy	To grant an order of ad-interim injunction restraining the respondent, their office bearers, person or person employed working through or under them or acting for and on their behalf, from in any manner, whatsoever, interfering with the right of the applications to utilize, the facilities of the Association/Club.
	O.A.No.393 of 2017	Mr.K.N.V. Prasad Reddy	To grant an order of ad-interim injunction restraining the respondent, their men, servants, agent or agents or any person or persons acting through or under them or for and on behalf of them, from in any manner, whatsoever in furtherance of the meeting conducted pursuant to the notice dated 14.10.2016 and the resolutions purported to have been passed in the meeting on 13.11.2016.

30.Meanwhile, the 65th Annual Report of 2016-17 dated 29.09.2017 was published by the Club/Association wherein it was informed that the membership issue had been resolved amicably in the meeting held on 13.11.2015.

31.Mr.S.Seshadri, the appellant in O.S.A.No.452 of 2018 therefore filed O.S.No.5459 of 2017 before the City Civil Court during October 2017. The said suit was filed for the following relief:-

- a) Declaring that the resolution covered by Agenda No.7 published in the 65th Annual Report of 2016-17 dated 29.09.2017 published by defendant club seeking to pardon the person who were involved in huge fraud as against the defendant club is illegal and opposed to the constitution and objects the defendant club.
- b) Mandatory injunction directing the defendant club to conduct fair and transparent disciplinary proceedings against the members of the club in introducing third parties as their son/son-in-law by producing fake documents for the purpose of gaining concessional membership and thereby causing huge monetary loss to the defendant club, as per the Byelaws of the defendant club within a time to be stipulated by this Hon'ble Court and conduct the Annual General Body Meeting in a fair manner under the supervision of this Hon'ble Court.
- c) Permanent injunction restraining the defendant club from permitting any of the members against whom disciplinary proceedings were initiated for the fraud of introducing fake members in the members children quota from participating as nominee, voting in this forthcoming election for the term 2017-2019.

32.Later O.S.No.5459 of 2017 was transferred to the Original Side of this Court and re-numbered as Tr.C.S.No. 170 of 2017 before this court and listed together with the two other suit.

33.In the above suit, the plaintiff Mr.S.Seshadri initially filed following two applications:-

Suit No	Applicati on No	Applicant	Prayer
Tr.C.S.N o.170 of 2018	O.A.No.27 1 of 2018	B.Sridhar Reddy	To grant an order of injunction restraining the present Managing Committee from taking any policy decisions with reference to the 2 nd respondent Association including removing members from the 2 nd respondent Association pending disposal of the above suit.
	O.A.No.27 2 of 2018	B.Sridhar Reddy	To direct the Managing Committee of the 2 nd respondent Association to submit quarterly accounts to this Hon'ble Court Pending disposal of the above suit.
	O.A.No.27 3 of 2018	S.Seshadr i	To grant an order ad-interim injunction restraining the respondent/defendant club from permitting any of the member of the respondent/defendant club against who disciplinary proceedings were initiated for the fraud/scam of introducing third parties under the members children category by making fake declaration and causing monetary participating or voting in the forthcoming election for the team 2017-2019 stated to be held on 29.10.2017 or on any other date, pending disposal of the above suit.
	A.No.2536 of 2018	S.Seshadr i	To grant an order of stay of the election notice dated 29.09.2017 published in the 65 th Annual Report of the respondent/defendant club, pending disposal of the above suit.

34. In Transferred C.S.No.170 of 2017, Mr.S.Seshadri alleged that he had participated in the Annual General Body Meeting held on 13.11.2016 and that about 275 members were present in the meeting who had unanimously voted for removal of fraudsters from the membership of the club.

35. According to Mr.S.Seshadri, he was physically present in the said Annual General Body Meeting held on 13.11.2016 along with the other members wherein it was unanimously voted for removal of these 134 (45+89) members.

36. According to Mr.S.Seshadri, the decision taken during the 64th Annual General Meeting Agenda No.7 on 13.11.2016 was tabled for passing a suitable resolution with respect to issue arising out children quota membership and its circulation vide.

37. According to Mr.S.Seshadri, the appellant in O.S.A.No.452 of 2018 (the plaintiff in Transferred C.S.No.170 of 2018), minutes of the meeting which was circulated in the Annual Report dated 29.09.2017 for the year 2016-17 of the Association altered the actual decisions of the General Body of the Meeting held on 13.11.2016 and contains inaccurate information.

38. According to Mr.S.Seshadri, the President and the Secretary of the Club/Association have recorded a false resolution as if the membership of all the 134 (45+89) members were regularised in the 65th Annual Report which was published during 4th week of September, 2017.

39. According to the Mr.S.Seshadri he was under a bona fide impression erring members who were found guilty of misusing the facility had been removed from the Association.

40.It was further stated that the Mr.S.Seshadri was shocked to note that the plaintiff in C.S.No 758 of 2015 i.e Mr.Narasa Reddy Kondlapudi whose membership was terminated in the meeting held on 13.11.2016 was contesting to the post of the President of the Association in the ensuing election.

41.Perhaps the office bearers perceived the presence of the Plaintiff in C.S.No.758 of 2015 a threat to their post as he was the past president of the club and enjoyed the confidence of the majority of members.

42.Meanwhile, in C.S.No.758 of 2015, Dr.K.Subbha Reddy and the appellant Mr.M.S.Moorthy in O.S.A.No.476 of 2018 got themselves impleaded as the defendants vide order dated 04.04.2018 in A.No.1457 of 2018 and A.No.8399 of 2017 respectively.

43.The appellant Mr.M.S.Moorthy however did not file any written statement in C.S.No.758 of 2015. He also did not participate in the hearing before the Court when the suit along with application was taken up for hearing. Yet Mr.M.S.Moorthy claims that he is aggrieved by the impugned common judgement and decree dated 24.07.2018 passed by the Learned Single Judge and has filed O.S.A.

44.All the three cases including C.S.No.170 of 2018 (formerly O.S.No.5459 of 2017 before the City Civil Court, Chennai) were taken up for hearing together by the learned Single Judge.

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45.In C.S.No.758 of 2015, following application were filed which changed the trajectory of the proceedings:-

Suit No	Applicati on No	Applicant	Prayer
C.S.No.7 58 of 2015	A.No.8391 of 2017	Andhra Social & Cultural Association/ Club (The defendant)	To pass order appointing a former Judge of this Hon'ble Court to conduct an extraordinary general body meeting of the applicant/defendant club for the specific purpose of arriving at the final decision on the action to be taken against the members who were involved in the irregularity of inducting third parties as members under the Children quota, by transparently following byelaws of the applicant/defendant club and secret ballot system, within such time as may be specified by this Hon'ble Court.
	A.No.2593 of 2018	Narasa Reddy Kondlapudi (The plaintiff)	To appoint an independent officer of this Hon'ble Court, either a former Hon'ble Judge of this Hon'ble High Court, or such other person of integrity to conduct elections for the managing committee of the respondent association for the term of 2017 to 2019 according to Bye-Law of the respondent association in the above suit.

46.Considering the confusing state of affairs with no clarity as to what happed on the dates mentioned, the learned Judge could have perhaps relegated the parties to the trial. However, these application altered the trajectory of the proceeding and warranting a summary disposal of the three suit to quell the dispute after noting that all was not well with management of the said Club/Associaition.

47.When the above mentioned applications filed in the suit filed by the Narasa Reddy Kondlapudi (the plaintiff in C.S.No.758 of 2015) and the Club were taken up for hearing, it was Mr. S.Seshadri (the appellant in O.S.A.No.452 of 2018/Plaintiff in Tr.C.S.No.170 of 2017) who submitted and supported the above applications.

48.It was submitted on behalf of Mr. S.Seshadri that unless an Extra Ordinary General Body Meeting of the club/Association is held to decide the fate of the membership of 89 members who were illegally inducted and made members and whose membership were terminated or regularised, there should no election with those members. Learned Judge has recorded the stand of Mr.S.Seshadri. Paragraph 11 of the impugned judgment which reads as under:-

The main contention of the counsel who filed the suit challenging the subsequent resolution has contended that for the so called meeting, meeting committee has not circulated the agenda. The resolution dated 29.09.2017 was fraudulently passed and the agenda has not been circulated in the Annual Report published later. Hence, it is the main contention of the counsel Mr.Thankasivan, appearing for the plaintiff in suit in Tr.C.S.No.170 of 2018, unless the very Extraordinary General Body Meeting is conducted to decide the issue as to whether those members who have been inducted illegally have to be removed or regularised, there cannot be any election with those members. Hence, the main contention of the learned Counsel Mr.Thankasivam is that Judge Commissioner may be appointed to call for Extraordinary General Body Meeting to decide the specific agenda which relates to the members who

have been inducted against the bye-laws and also further course of action against the parent members and to conduct election. The counsel appearing for the club also submitted that Extraordinary General Body Meeting may be convened and election may be conducted by the Judge Commissioner appointed by this Court.

49. Recording the above request of made on behalf of Mr.S.Seshadri the appellant in OSA No.452 of 2018 and considering the overall facts and circumstances of the case, the learned single judge appointed Honourable Mr.Justice K.P Sivasubramaniam Retired Judge of this court as Judge Commissioner to conduct an Extra Ordinary General Body Meeting of the Andhra Social and Cultural Association and thereafter to hold election for the Association. The operative portion of the order reads as under:-

12. The learned counsel appearing for the plaintiff in the suit in C.S.No.758 of 2015 would submit that though the resolution was passed in the year 2015 for removing the members who were inducted, the resolution was set aside by the Order of this Court and no appeal has been filed and now they cannot be removed. Further, in the subsequent resolution they have been regularized and therefore, they also have right to vote and to contest the election. Hence, opposed the contention of the learned counsel Mr.Thankasivam, in this regard. The counsel appearing for the impleading party also submitted that the purpose of filing the suit is only to stall the elections.

13. I have perused the entire records available on record. The entire issue revolves around the induction of the third parties as son or son-in-law of the existing members. The bye-law of the society deals with enrolment of the members. Any person who desire to be a member of the Andhra Social and Cultural Association, they will be enrolled as a member only as per the bye-laws. As already stated the bye-law 5 (n) special privilege

is given to the existing members to induct their son or son-in-law (one only) at a concession rate of 1/3rd of the membership fees, thereby giving 2/3 fees waiver. But the fact remains that taking advantage of the clause 5(n) which provides induction of son or son-in-law of the membership of the existing members, several third parties were inducted as members by the existing members as that of their son or son-in-law, which is totally contrary to the bye-laws and infact such induction into the membership is against the very bye-laws. The person who has become a member illegally in a back door method cannot be called as members legally inducted into the club till their membership is regularised by Extraordinary General Body Meeting or by way of amended bye-laws.

14. On a careful perusal of the bye-laws, there is no such provision, whatsoever, available to regularize the members who had come through back door. Therefore when their membership is against the very bye-laws of the society, I am of the view that such members cannot have any right to object any action taken either against them or the parent member who had fraudulently misrepresented them as their son or son-in-law. It is also informed that there are more than 2000 members in the Association. That being the position, merely because the earlier resolution was set aside by this Court on the technical ground that the agenda is not circulated and there was no 2/3rd majority at the time of passing such resolution removing members, such finding would not legalise the membership of the persons, who have become members in utter violation of the very bye-laws of the society.

15. Similarly, the subsequent resolution is also said to have been taken place in the year 2016 to regularize those persons. It is to be noted that such resolution is also passed when the majority of the members entered through back door were holding the affairs of the society. Such being the

position, the main ground assailing subsequent resolution before this Court is that the agenda for passing such a resolution was not circulated to all the members and such resolution is also not published in subsequent Annual Report. The resolution said to have been passed on 13.11.2016 was first known on 29.09.2017 as can be seen in the above resolution filed in the typed set and in the subsequent Annual Report also, this Agenda is found missing. All these facts clearly indicate that all is not well and not acted according to law. Therefore, I am of the view that admittedly 89 members were made as members as the son or son-in-law of the existing members. But, in fact they are neither son nor son-in-law of the members. Therefore, when such people become members in utter violation of bye-laws, they cannot have any say in this suit until a proper Extraordinary General Body Meeting is conducted in a proper manner to take a decision as to whether or not to regularize those members. The right of the members who are inducted under the childrens quota will be decided only in Extraordinary General Body Meeting, subject to the majority view of the meeting.

16. In view of all these facts, this Court is of the view that unless a fresh Extraordinary General Body Meeting is called to decide the right above persons, the members who have come through back doors cannot have any say. Their right has to be decided in the Extraordinary General Body Meeting.

17. Accordingly, this Court, in the interest of the entire members of the society, is of the view that a fresh Extraordinary General Body Meeting is absolutely necessary to decide whether or not the third parties, who have become members under the children's quota to be regularized or removed and whether the existing members who have inducted such members also to be proceeded departmentally or not. These aspects have to be decided only in the

Extraordinary General Body Meeting. If those aspects have been resolved by holding Extraordinary General Body Meeting in a proper manner, then nothing survives in these suits.

18.To achieve the above purpose, this Court appoints Honourable Mr. Justice K.P.Sivasubramanian, (retired Judge of this Court), to conduct Extraordinary General Body Meeting for the Andhra Social and Cultural Association and thereafter, conduct election for the said Association. It is ordered as follows:-

- i. That the Honourable Mr. Justice K.P.Sivasubramanian (Retired Judge, High Court, Madras) residing at No.47, Pulla Avenue, Chennai - 600 030, Mobile No.9444701312, be and is hereby appointed as Judge Commissioner.
- ii. That the Judge Commissioner appointed herein shall call for Extraordinary General Body Meeting of the members of the Club for arriving at a final decision as to the action to be taken against the members who are involved in inducting third parties as members under the children's quota by secret ballot system within a period of three months from the date of this Order.
- iii. Immediately after such meeting is conducted as per the bye-laws, the Judge Commissioner also shall hold election for the club strictly as per the bye-laws for the period 2017-2019. All the above expenses shall be borne by the club.
- iv. The Judge Commissioner shall be paid a sum of Rs.2,00,000/- (Rupees two lakhs only) as initial remuneration.
- v. To achieve the purpose of conducting Extraordinary General Body Meeting and also for holding elections, the Judge Commissioner is at liberty to take assistance of the lawyer or lawyers of

his choice and the remuneration and expenses for such services shall also be borne by the Club.

vi. The Judge Commissioner at the time of filing final report is also entitled to seek for additional remuneration.

vii. It is also made clear that the Extraordinary General Body Meeting shall be conducted by following secret ballot system and any objections with regard to the meeting and the election, the decision of the Judge Commissioner is final.

50. While passing the impugned judgment and decree on 24.7.2018, the learned single judge noted that several persons were instrumental in inducting 3rd parties as members contrary to clause 5 (n) of the bylaws. They were held to have obtained membership illegally through back door and cannot be called as members till their membership is regularised in an Extraordinary General body meeting or by way of amendment to the bylaws.

51. Therefore, the learned Single Judge also made it clear that these 89 persons who were made members contrary to the bylaws cannot have a right to object to any action taken either against them or against the parent members who had fraudulently misrepresented them to be their sons or sons-in-law contrary to bye-law No.5 (n) of the Association.

52. Referring to the interim order earlier passed on 23.11.2015 in O.A.No. 1001 and Appln.No.6210 of 2015 in C.S.No. 758 of 2015 and O.A.No. 842 of 2015 and Appln.No.5418 of 2015 in C.S.No.665 of 2015, the learned Single Judge also observed that the subsequent Resolution passed by the majority of the members along with the members who have entered through backdoor and were holding positions in the affairs of the Association/club without circulating the agenda for passing a resolution indicated that all was not well and the affairs of the Association was being carried not in accordance with law.

53. Under these circumstances, the learned Single Judge concluded that 89 members who were made as members as son or son-in-law of the existing members contrary to the bylaws cannot have a say in the Extraordinary General Body Meeting unless a proper decision is taken to regularise their membership. It was specifically clarified that the rights of these 89 members will be decided in an Extra ordinary General Body Meeting.

54. In view of the above observation Judge Commissioner was requested to call for an Extraordinary General Body Meeting of the Association/club for arriving at a final decision as to the action to be taken against the members who were involved in inducting 3rd parties numbering 89 under the children's quota by secret ballot system within a period of 3 months from the date of the order.

55. The Judge Commissioner was also requested to conduct elections for the Association/club strictly in accordance with the bylaws for the period 2017-18.

56. In compliance with the order of the learned Single Judge dated 24.07.2018, the learned Judge Commissioner held a preliminary meeting on 04.08.2018 followed by another meeting on 19.08.2018.

57. The office bearers /Managing Committee of the club/Association however felt that for the conduct the EGM as per the directions of Hon'ble High Court, Agenda has to be circulated and therefore passed the Resolution Nos.1 to 3 on 10.08.2018 which according to them was not in strict compliance of the Byelaws. Needless to state that the office bearers wanted to control the proposed meeting and therefore sought to put spoke by circulating resolution.

58. Therefore, during the interregnum on 10.8.2018, the Managing Committee of the Association/club passed a resolution resolving to impose punishment for expulsion of all the 45 members involved in the alleged children's quota fraud and those 89 members. This was unwarranted.

59. A copy of the resolution dated 10.08.2018 which was passed was handed over to the judge Commissioner. The said Resolution reads as under:-

Resolution No.1: In compliance of clause 22 (e) of our Byelaws, the managing committee wholeheartedly hereby accepts the findings of the disciplinary committee (fact) finding committee) excepting clause-3 of its recommendation which speaks about regularization in view of the fact that according to our Byelaws and also as per the findings of the Hon'ble High Court, Madras, there is no provision for regularization of members who have committed fraud or irregularity.

Resolution No.2: In compliance of clause 22 (f) of the Byelaws, our managing committee held discussions and it is hereby resolved to impose punishment of expulsion of all 45 members of all 45 members who involved in the children quota membership fraud by inducting third parties as son/son-law and also to expel all 89 members who obtained membership through such fraud.

Resolution No.3: It is further resolved that a certified copy of the resolution No.2 shall be submitted by Hony.Secretary to the Hon'ble Judge Commissioner and the managing committee shall request the Hon'ble Judge Commissioner to prepare the agenda for conducting the EGM and secret ballot voting on the above proposed punishment of expulsion placed before the Extra-ordinary General Body Meeting for secret ballot voting under the supervision of Hon'ble Judge Commissioner appointed by the Hon'ble High Court vide its order dated 24.07.2018.

Resolution No.4: Our managing committee further resolved to permanently suspend the voting rights of 45 members who are involved in the children quota membership fraud by inducting third parties as son/son-in-law and also the voting right of expel 89 members who obtained membership

through such fraud with effect from today.

Resolution No.5: It is further resolved that in the event of EGM approving expulsion of 2/3rd majority in the secret ballot system, the association shall refund all the monies collected from such children quota members pursuant to the previous resolution dated 13.11.2016 and both parent members and children quota members shall be ceased to members of the club. In case of the resolution dated 13.11.2015 and both parent members and children quota members shall be ceased to members of the club. In case of the resolution regarding expulsion is not approved by 2/3rd majority, both parent and children quota members shall continue to be member of the association without any voting right which has been suspended by way of resolution No.4.

Resolution No.6: It is further resolved that the payments required to be made in favour of the Hon'ble Judge Commissioner as per the direction of the Hon'ble High Court, Madras shall be made by the Hony.Secretary and Hony.Treasurer immediately simultaneously while complying with resolution No.3 herein above.

60.These are events after the suit was disposed by the learned Single Judge which if at all gave rise to a fresh cause of action. On 17.08.2018, the Managing Committee communicated their decision and the resolution passed in the meeting held on 10.8.2018 with the request to circulate the same seeking to impose punishment on the 45 parent members and 89 members who were admitted to the membership of the Association/club contrary to Bye law No.5 (n).

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61.The Managing Committee of the Association/Club further stated that Bye law No. 22 (h) mandates two third majority of the general body for passing resolutions for removal of the erring members.

62.The Club by their communication dated.17.8.2018 requested the Judge Commissioner to circulate the Agenda relating to Resolution No.2 referred above seeking to impose punishment of expulsion. They stated Byelaw Clause 22(h) requires 2/3rd majority of the general body for passing/approving the resolution for imposing the punishment of expulsion, when the Managing Committee decides to expel any of its members. For any other punishment, such 2/3rd approval of the general body is not required.

63.The Managing Committee thus requested the Judge Commissioner to consider their plea that all the 134 members (45+89) should not be allowed to participate in the proposed meeting to be held in compliance of the order of the learned single Judge.

64.In reply, the learned Judge Commissioner by a communication dated 18.8.2018 drew attention to para 16 to 18 of the order dated 24.7.2018 of the learned Single Judge in the above suits and therefore stated that the proposed Extra General Body Meeting will be held only in compliance of the order of the learned single judge.

65.It is under these circumstances, S.Seshadri, appellant in O.S.A No. 452 of 2018 (plaintiff in Transferred C.S.No.170 of 2018) filed Application Nos. 6768 and 6769 of 2018 in the above suit seeking for the following clarification:-

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Suit No	Applicati on No	Applicant	Prayer
Tr.C.S.No. 170 of 2018	A.No.6768 of 2018	Andhra Social & Cultural Association/ Club	To issue clarification of the common judgment dated 24.07.2018 to the effect that the 45 existing members who have illegally inducted third parties as son/son-in-law and the 89 members who were inducted under such children quota fraudulently, cannot be permitted to participate in the Extraordinary General Body Meeting and that the Agenda to be placed before the EGM to be conducted by the Hon'bl Judge Commissioner is only to ascertain as to whether 2/3 rd majority of general body members are approving the proposed punishment of expulsion.

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Suit No	Applicati on No	Applicant	Prayer
	A.No.6769 of 2018	S.Seshadri	To clarify the common order dated 24.07.2018 passed Tr.C.S.No.170 of 2018:- (1) As to whether the 45 members of the 1st respondent club (Andhra Social & Cultural Association / Club) who involved in the fraud of inducting third parties as son/son-in-law as members, against whom punishment is sought to be imposed, can be allowed to participate in the EGM (2) the opinion for regularization of the members who are involved in the children quota fraud can be given in the Agenda for the EGM in the absence any such provision for regularization is available in the byelaws of the club.

66.By an order dated 28.9.2018, the learned single judge disposed Application No. 6768-69 of 2018 with the following observations:-

- 1.The applications were heard today through video conferencing.
- 2.These applications have been filed seeking clarification, in view of the Agenda circulated by the Hon'ble Judge Commissioner appointed by this Court to conduct

Extraordinary General Body Meeting.

3.The main grievance of the petitioners in the applications is that the Judge Commissioner has circulated Agenda permitting 45 members, who have inducted third parties against the Byelaws and the EGM is to take action against those members who have inducted third parties. That being the position, members, who have inducted third parties, cannot be allowed to participate in the Extraordinary General Body Meeting.

4.Heard both sides and also the counsel representing the Judge Commissioner.

5.Though several clarifications sought in the applications, I am of the view that the order passed by this Court does not require any clarification. However, taking note of the fact that the Judge Commissioner has taken a view that 45 members, who have inducted third parties, also be permitted to participate in EGM, this Court is of the view that the same requires some clarification. Action has to be taken not only against the third parties but also against the persons who are instrumental for inducting them as members.

6.In such view of the matter, allowing such members, namely, 45 members to participate in the meeting, would amount to they being the judge of their own cause. Such things cannot be allowed. Hence, it is made clear that 45 members, who have inducted third parties, though they continue to be the members of the club, are not entitled to participate in the EGM to vote. In respect of Agenda circulated by the Judge Commissioner, EGM has to take a decision as per the Byelaws. It is also made clear that apart from 45 members, who have inducted third parties, 89 members, who have entered in back-door entry, also are not entitled to participate in the Extraordinary General Body Meeting. The Judge Commissioner is requested to inform those members about the order of this Court. Since EGM notice has already been issued and fixed on 21.10.2018, the same shall go on, on the same day.

7.With this clarification, the Registry is directed to issue fresh order copy to the parties concerned.

67.The Managing committee of the Association/Club sought to persuade the learned Judge Commissioner vide letter dated 10.10.2018 and pointed out the difference in the byelaws of the Association/club and the proposed Extra Ordinary General Body Meeting that was proposed and convened on 21.10.2008.

68.In compliance of the order dated 24.07.2018 as modified by the learned Single Judge by an order dated 28.09.2018 in Application No. 6768-69 of 2018 in the Tr.C.S.No. 170 of 2018, the learned Judge Commissioner circulated notice dated 15.9.2018 and proposed a Extraordinary General Body Meeting on 21.10.2018 at 10:30 AM at the premises of the Association/club.

69.Agenda for the aforesaid meeting read as under:-

AGENDA FOR VOTING

Item No.1: Whether or not the third parties 89 persons who have become members (list enclosed herewith) under the Children's quota are to be (a) Regularized; or (b) Removed.

Item No.2: Whether any action should be taken against the 45 members (list enclosed herewith) who are involved in inducting such third parties/persons under Children's quota, departmentally.

70.After taking consideration of the representation of the Managing Committee of the Association/club, the learned Judge Commissioner postponed AGM/election to the office bearers to 30th December 2018 at 10:30 PM.

71.We have considered the arguments of the learned counsels for the appellant, the contesting respondent Mr.Narasa Reddy Kondlapudi, the Association/Club and some of the members who supported the appellants in these appeals.

72.We have heard at length submissions of learned counsel for the contesting parties. Mr.Ravi Advocate the learned counsel for Mr.R.Subramaniam, counsel made elaborate submission on behalf of the appellant in O.S.A. 476 of 2018. Mr.Thankasivan, the learned counsel also made elaborate submission on behalf of the appellant in

O.S.A.No.452 of 2018.

73.Mr.P.L.Narayan, the learned counsel made elaborate submission on behalf of the contesting respondent namely Narasa Reddy Kondalapudi (2nd respondent In O.S.A. 476 of 2018 and 3rd respondent in O.S.A. 452 of 2018-plaintiff in C.S.No. 758 of 2015).

74.Mr.Palaniappan made elaborate submission for the Association/club the 2nd respondent in O.S.A. 476 of 2018/1st respondent in O.S.A. 452 of 2018.

75.During the Course of hearing of the appeal in O.S.A. 452 of 2018, respondents No. 4-27 who were impleaded on 1.2.2019 were also heard.

76.Four suits came to be filed. First Mr.Narasa Reddy Kondlapudi filed C.S.No.758 of 2015. The second suit was filed by Mr.Chagrlamudi Gandhi in C.S.No.665 of 2015. Both these suits were filed challenging the expulsion of these two persons who were allegedly expelled along with 132 other members.

77.By the impugned judgment and decree, the learned Single Judge had disposed C.S.No.758 of 2015 filed by Mr.Narasa Reddy Kondlapudi along with C.S.No.278 of 2017 filed by Mr.K.N.V.Prasad Reddy and Tr.C.S.No.170 of 2018 filed by Mr.S.Seshadri. C.S.No.665 of 2015 was not linked with theses three suits.

78.C.S.No.278 of 2017 was filed during February 2017 by Mr.Narasa Reddy Kondlapudi. Tr.C.S.No.170 of 2018 was filed by Mr.S.Seshadri, the appellant in O.S.A.No.452 of 2018 challenged.

79.In these three suit, the management of the Association/Club filed its written statement only in C.S.No.758 of 2015. The management of the Association/Club tacitly supported the two appellants namely Mr.K.Moorthy in O.S.A.No.476 of 2018 (who got himself impleaded in C.S.No.758 of 2015) and the appellant Mr.S.Seshadri in O.S.A.No.452 of 2018.

80.Mr.K.N.V.Prasad Reddy who had filed C.S.No.278 of 2017 to declare the notice dated 14.10.2016 calling for convening of Annual General Body Meeting and the

resolution passed on 13.11.2016 as null and void and for permanent injunction to the Club from proceeding further with the aforesaid notice and to give effect to the resolution was passed in the meeting held on 13.11.2016 has not preferred further appeal. He has accepted the verdict of the learned Single Judge.

81.O.S.A.No 452 of 2018 was filed on 14.11.2018 while O.S.A.No.476 of 2018 was filed on 16th November 2018. Thus, after the efforts to remove the 139 (45+89) members failed in the E.G.M on 21.10.2018, both the two appeals have been filed to find fault with order of the learned Single Judge and that of the efforts taken by the learned Judge Commissioner in the Extra Ordinary General Meeting on 21.10.2018 and all the efforts taken is sought to be put at knot by these two appellants..

82.On behalf of the appellant in O.S.A.No 476 of 2018 it was submitted that the judgement and decree passed by the learned single judge was contrary to law without following the well procedure contemplated under the Civil Procedure Code. It is submitted that the learned single judge disposed the suit without:-

- i. framing issues;
- ii. talking of any documents;
- iii. recording of evidence

83.Additionally it was submitted that there was no judgement passed by the learned Judge within the meaning of Order XX Rule 4 (2) and 5 of CPC. It was submitted that the judgement should contain concise statement of the case, the points for determination, the decision thereon and reasons for such decision. In this connection reliance was placed on the decision of the Honourable Supreme Court in Balraj Taneja & Another vs Sunil Madan and Another, (1999) 8 SCC 396 and that of the decision of the division bench of this court in Meenakshisundaram Textiles Ltd., vs Valliammal Textiles Ltd., 2011 (3) CTC 168.

84.It was submitted that there was neither any material available for the court to conclude that the parties were not at issue on any question of law or fact for pronouncing the judgement nor there was any reasoning in the impugned judgement of the learned single judge.

85.It was submitted that there was no 1st hearing of the case for the court to pronounce judgement under Order XV of CPC. It was submitted that 1st hearing of the case would mean the day when the court applies its mind to the case and which would ordinarily mean when the issues are determined or evidence is taken. In this connection, the decision of the division bench of this court in Dr.L.Ramachandiran and Another vs K.Ramesh and Ors, 2015 (4) Law Weekly 585 was invited.

86.On merits it was submitted that though the learned single judge as concluded that 89 persons were made members of the Association/club contrary to Bye Law No. 5 (n), he ought to have decided the issue conclusively instead of disposing the suit in a summary manner.

87.It was further stated that the prayer in C.S.No. 758 of 2015 was filed in the representative capacity without obtaining the leave of the court inasmuch as the plaintiff there not only sought for relief for himself but also for the 132 erring members. It was stated that the single judge sitting in the capacity of the single judge ought not to have entertained the suit containing such a wide relief.

88.The learned counsel for the club referred to the decision of the Hon'ble Supreme Court in Ved Prakash Wadhwa vs Vishwa Mohan, (1981) 3 SCC 667. There the Hon'ble Supreme Court referred to Order 14 Rule 1(5) and Order 15 Rule 1 of CPC while dealing with the case arising out of a Rent Control enactment and observer as follows:-

These provisions indicate that "the first hearing of the suit" can never be earlier than the date fixed for the preliminary examination of the parties (Order 10 Rule 1) and the settlement of issues [Order 14 Rule 1 (5)].

89.The decision of the Hon'ble Supreme Court in T.P.Daver vs Lodge Victoria No.363, S.C.Belgaum and others, 1963 AIR (SC) 1144 was relied upon regarding the scope of interference by a Court in the internal matter of clubs and association. It related to expulsion of a members from a Masonic lodged. The Court there held that the Courts have limited role. In Paragraph, the Court summarized as follows:-

8. The following principles may be gathered

from the above discussion.

(1) A member of a masonic lodge is bound to abide by the rules of the lodge; and if the rules provide for expulsion, he shall be expelled only in the manner provided by the rules.

(2) The lodge is bound to act strictly according to the rules whether a particular rule is mandatory or directory falls to be decided in each case, having regard to the well settled rules of construction in that regard.

(3) The jurisdiction of a civil court is rather limited; it cannot obviously sit as a court of appeal from decisions of such a body; it can set aside the order of such a body, if the said body acts without jurisdiction or does not act in good faith or acts in violation of the principles of natural justice as explained in the decisions cited supra.

90. It was further stated that the induction of 89 persons as members of the Association/club was tainted with fraud and therefore without proper trial, therefore there cannot be determination of the rights without trial.

91. Mr. M.S. Moorthy, the appellant in O.S.A. 476 of 2018 (who got himself impleaded as the 2nd defendant in C.S.No.758 of 2015) also addressed a letter dated 15.10.2018 to the learned Judge Commissioner with a request to adopt such procedure during the forthcoming Extraordinary General Body Meeting and if required submitted that he along with others were ready to help the Learned Judge Commissioner either directly or through the counsel at any appointed time.

92. These submissions were made by the appellant in O.S.A. 476 of 2018 who neither participated in the proceedings before the learned single judge after getting himself impleaded 04.04.2018 and by a person who accepted the verdict of the learned Single Judge by not only writing a letter to the learned Judge Commissioner giving his assurance and support for the proposed Extraordinary General Body Meeting vide letter dated 15.10.2018 but also actually participating in the Extraordinary General Body Meeting held on 21.10.2018. The said appellant also did not file any written statement. Only the club filed written statement in C.S.No. 758 of 2015 during September 2016. However, the Club/Association has not filed an

appeal.

93.Thus, it is evident that Mr.M.S.Moorthy, the appellant in O.S.A. 476 of 2018 (the 2nd defendant who got itself impleaded in C.S.No. 758 of 2015) had accepted the verdict of the learned single judge and acquiesced into it but has later filed O.S.A.No.476 of 2018 questioning the method of disposal of the suit by the learned single judge merely because the outcome of the EGM were against his choice.

94.In our view, Mr.M.S.Moorthy (the appellant in O.S.A. 476 of 2018) himself acquiesced to the order passed by the learned single judge by writing a letter dated 15.10.2018 to the Judge Commissioner appointed vide the impugned judgement and decree but had also agreed to extend help to the Learned Judge Commissioner vide letter dated 15.10.2018.

95.That being the case, we are of the view none of the submissions of the appellant can be entertained as he had acquiesced into the order of the learned single judge by actively participating in the steps taken by the learned Judge Commissioner pursuant to the impugned order and judgement.

96.Thus, O.S.A. 476 of 2018 filed by Mr.M.S.Moorthy during November 2018 is not bona fide and deserves to be dismissed with cost as the said appellant not only participated in the proceeding before the learned Single Judge after getting himself impleaded but had also acquiesced into the order of the learned Single Judge by writing letter dated 15.10.2018 to the learned Judge Commissioner.

97.Learned counsel for the appellant Mr.M.S.Moorthy in O.S.A.No.476 of 2018 made few other submissions. We are not inclined to deal with the same in view of his acquiescence and in view of our above observation.

98.In our view, O.S.A. 476 of 2018 filed by Mr.M.S.Moorthy (appellant in O.S.A. 476 of 2018) was motivated and is liable to be dismissed with costs. However, we are refraining from imposing any costs on him.

99. Having acquiesced by participating in meeting held on 21.10.2018, it cannot be said that the appellants were aggrieved by the impugned judgment and decree passed by the learned Single Judge passed on 24.07.2018 as modified on 28.09.2018. The above appeal is not bonafide and are liable to be dismissed and is hereby dismissed.

100. Having held that O.S.A.No.476 of 2018 filed on behalf of the 2nd defendant in C.S.No.758 of 2015 as misconceived and is liable to be dismissed, we shall now proceed to deal with the other appeal in O.S.A.452 of 2018 filed by Mr.S.Seshadri, the plaintiff in Transferred C.S.No.170 of 2018.

101. The appellant in O.S.A.No.452 of 2018 Mr.S.Seshadri also participated in the Extra Ordinary Meeting of the Club conducted by the learned Judge Commissioner on 21.10.2018 where the motion to remove 134 [45 + 89] members was defeated by the members.

102. The complaint of the appellant in O.S.A.452 of 2018 is that impugned judgment and decree of the learned Judge in directing the learned Judge Commissioner to call for an extra ordinary general meeting of the members to decide on the fate of erring 139 [45+89] members was contrary to the byelaws of the Association/Club.

103. According, to the appellant the right to punish a member is vested with the Managing Committee of the Club and the decision whether the punishment should be result in termination of membership is vested with the general body.

104. The learned Judge Commissioner had notified the date of Extra General Body Meeting to be held on 21.10.2018 of the members pursuant to the order of the Learned Single Judge.

105. Following 2 agendas for the Extra General Body Meeting were fixed on 19.08.2018 pursuant to order dated 24.07.2018 of the Learned Single Judge. The relevant agenda read as under:-

1. Whether or not 3rd parties/89 persons who

have become members (list enclosed herewith) under the children quota are to be (a) regularised or (b) removed;

2. Whether any action should be taken against 45 members (list enclosed herewith) who are involved in inducting such 3rd parties/persons under children quota, departmentally.

106. This according to the Appellant was contrary to the Bylaws of the Association. According to the appellant in O.S.A.No.452 of 2018, agenda No 1 giving scope for regularisation of membership of 89 persons inducted was contrary to the bye laws of the Association/club was impermissible.

107. Therefore, Application No. 6768 of 2018 was filed for clarification by the club/Association and Application No. 6769 of 2018 was filed by said appellant. It is submitted that despite asking for clarification, the learned Single Judge allowed the Members to decide the fate of membership by merely restraining further from participating in the said meeting.

108. These applications were disposed by the learned single judge by an order dated 28.9.2018. By the aforesaid order, the learned single judge made it clear the 45 members cannot be allowed to participate and vote in the Extra General Body Meeting as they cannot be allowed to be judge their own cause. The Learned Single Judge also made it clear that 89 members who entered through backdoor entry were also not entitled to participate in the Extraordinary General Body Meeting

109. Thereafter, the Extra General Body Meeting was also conducted on 31.10.2018, where both the agenda were decided against the respective appellants and those who tacitly supported the appellant.

110. The learned judge Commissioner has also filed an interim report dated 12.11.2018 setting of the events that took place after he assumed the role of a Judge Commissioner pursuant to the order of the court and upto the culmination of the Extraordinary General Body Meeting held on 31.10.2018.

111.Paragraph Nos. 1 to 22 of the report of the judge Commissioner is reproduced below.-

1. In C.S.No.758 of 2015 and connected Suits and Applications, the Hon'ble High Court of Madras by order dated 24.7.2018 appointed me as the Judge Commissioner to hold the EGM of the first defendant Andhra Social & Cultural Association hereinafter called the Club. The said order was received by me on 26.7.2018.

2. The operative portion of the said order is contained in para 18 of the order which is as follows:

"18.To achieve the above purpose, this court appoints Hon'ble Mr.Justice K.P.Sivasubramaniam, (retired Judge of this court), to conduct Extraordinary General Body Meeting for the Andhra Social and Cultural Association and thereafter conduct election for the said Association. It is ordered as follows:

i) That the Hon'ble Mr.Justice K.P.Sivasubramaniam (Retired Judge, High Court, Madras) residing at No.47, Pulla Avenue, Chennai-600 030, Mobile No.9444701312, be and is hereby appointed as Judge Commissioner.

ii) That the Judge Commissioner appointed herein shall call for Extraordinary General Body Meeting of the members of the Club for arriving at a final decision as to the action to be taken against the members who are involved in inducting third parties as members under the children's quota by secret ballot system within a period of three months from the date of this order.

Iii) Immediately after such meeting is conducted as per the bye laws, the Judge Commissioner also shall hold election for the club strictly as per the bye laws for the period 2017-2019. All the above expenses shall be borne by the club.

iv) The Judge Commissioner shall be paid a sum of Rs.2,00,000/- (Rupees two lakhs only) as initial remuneration.

v) To achieve the purpose of conducting Extraordinary General Body Meeting and also for holding elections, the Judge Commissioner is at liberty to take assistance of the lawyer or lawyers of his choice and the remuneration and expenses for such service shall also be borne by the Club.

vi) The Judge Commissioner at the time of filling final report is also entitled to seek for additional remuneration.

Vii) It is also made clear that the Extraordinary General Body Meeting shall be conducted by following secret ballot system and any objections with regard to the meeting and the election, the decision of the Judge Commissioner is final"

3.From the above order it is seen that an EGM has to be called for viz., (1) to arrive at a final decision as to the action to be taken against the members enrolled and members involved in inducting such third parties as members under children quota by secret ballot within a period of three months and (2) to thereafter hold an election to the office bearers of the club strictly as per the byelaws of the club for the period 2017-2019.

4.Having regard to the nature of the controversy and in order to iron out any difference between the various groups in the preparation of the Agenda for the first EGM meeting, I contacted all the learned counsel who had represented the various parties before the Hon'ble High Court, for a discussion to be held on 4.8.2018. In the meeting held on 4.8.2018 at the premises of the Club, President, Joint Secretary and the Committee members were also present. After discussion, I informed that a draft Agenda will be prepared and that another meeting will be held in due course, vide Minutes of the Meeting filed herewith as Annexure No-1.

5.I had also instructed the office of the club to furnish the list of 89 members who were inducted under children's quota and of the 45 members who were involved in the enrolment.

6.The second meeting was held on 19.8.2018. The office of the club had circulated the list of said 89 + 45 members and had also by letter dated 17.8.2018 had informed that a total number of 2665 members were eligible to vote. At the commencement of the meeting, I circulated a copy of the proposed Agenda as well as of the Notice, a note on the proposed EGM and the copy of the list of 89 + 45 members. Various contentions were raised by the learned counsel of all the parties. The minutes of the meeting held on 19.8.2018 is filed herewith as Annexure No-2 and the contentions raised by the respective learned counsel have been dealt with there under. Finally Agenda Items No.1 and 2 were framed. I also informed that as the period of three months granted for convening the first EGM will be completed as on 23.10.2018, the EGM will be held by the end of 2nd or 3rd week of September, 2018 which would facilitate the pre-requisite time of 21 days for notice. Even though the byelaws contemplate communication even by ordinary post, I took a decision that the notice shall be sent by Speed Post and the notice will also be put on the Notice Board of the Club. I also informed that I was appointing Mr.V.Srikanth, Advocate to assist me in accomplishing the directions of the Hon'ble Court.

7.Mr.Thankasivam, Advocate representing one of the parties and Mr.G.Rm.Palaniappan, Learned Counsel for the Club represented that they would be approaching the Hon'ble Court for certain clarifications.

8.On 18.9.2018, the third meeting was held with the Learned Counsel representing the parties. They were furnished with a copy of the notice of EGM to be sent to the members with enclosures. Regarding the identity of the members on the basis of the statement made by the office of the club that all the members have been issued with Membership I.D. card , it was decided that the members

will be directed to produce the Membership I.D. Card before the ballot paper is issued to the respective members, failing which no member shall be permitted to vote. The Minutes of the Meeting is filed as Annexure No.3.

9. Thereafter Notice for EGM with enclosures was despatched from 25-09-2018, by Speed Post from the club with assistance of Mr.V.Srikanth, Advocate. The notice and the enclosures thereon are filed as Annexure No-4. (Series)

10. A week before the date of set for the polling, printing of ballot paper was carried out without involving the club. 3 days prior to the EGM I also visited the premises of the club along with Mr.Srikanth and a team of individuals inclusive of few Advocates to assist us, to decide about the venue of balloting and the process of holding the EGM. For Agenda Item No.1, the ballot was printed in rose colour and for Item No.2 in yellow colour. Specimen copy of the ballots are filed herewith as Annexure No-5(a) and 5(b). I had decided that the EGM will commence at 10.30 a.m. at Godhavari Hall and the members will be allowed to enter the hall by the office of the Club by following the procedure of obtaining their signature in the relevant register. At the end of the same hall, verification/identification of the members will be carried out by a group of advocates assisting me and after identification two ballot papers will be handed over to the members, followed by the member moving to the next hall (Krishna Hall) where enclosed booths will be set up to enable the members to put the stamp on the ballots and after marking the ballot, the-respective member shall drop the ballot in the boxes which would be kept in the same hall. It was decided that the balloting will be closed at 4.30 p.m. and that the counting of the ballot will be taken up at 6 p.m. It was also decided to video graph the entire process of the EGM and balloting.

11. On the day prior to the polling I visited the club along with Mr.V.Srikanth and others assisting us to oversee all the arrangements for putting up a dais in the meeting hall and a long stretch of table at

the end of the hall to provide space for carrying out the checking of the identity of the members and handing over of the ballots. On the adjoining hall (Krishna Hall), booths were arranged (8 in numbers) and at the centre the ballot boxes were to be kept.

12. At this stage, I should point out that I had received certain letters, directly and in some cases with a copy to the office of the club sent by a handful of members giving their own version of the controversy regarding what should be done or what should not be done. A letter was also given by the Honorary Secretary dated 17.8.2018. Also on the date prior to the EGM some of the members/office bearers also wanted to meet me and to make certain representations. I informed the General Manager that I cannot do so for two reasons. (1) I was bound by the directions of the Hon'ble High Court and cannot go by the grievances and opinions expressed by the individual members and that I have already met all the Learned Counsel who are representing the various parties before the Hon'ble Court and have conferred with them thrice regarding the agenda and the process of the EGM. (2) I cannot allow one group of persons alone to talk to me in the absence of another group. I informed that G.M. that if anyone wanted to represent any matter to me, the same may be put in writing which would be duly considered. I also informed him that I cannot be responding to the letters sent by individual members expressing their personal opinion or grievances with regard to the affairs of the Club. I was bound to strictly follow only the directions of the Hon'ble High Court. Another letter dated 16.10.2018 of the Hony. Secretary was forwarded to me (delivered on 17.10.2018) objecting to the framing of the agenda and their opinion on certain matters. On the same day I had send a reply to the Hony. Secretary and informed him that the issues thus raised were not acceptable. I am not referring to the details in both the communications in this report, as I am filing the said letter of the Hony. Secretary dated 16.10.2018 and my reply dated 17.10.2018 as Annexure No-6 and

7.

13.I should also place on record that some of the parties had moved the Hon'ble High Court for certain clarifications of its order dated 24.7.2018 and the Hon'ble Court by its order dated 28.9.2018 was pleased to issue certain directions and the following is the operative portion of the said order:

"5. Though several clarifications sought in the applications I am of the view that the order passed by this Court does not require any clarification. However, taking note of the fact that the Judge Commissioner has taken a view that 45 members, who have inducted third parties, also be permitted to participate in EGM, this court is of the view that the same requires some clarification. Action has to be taken not only against third parties but also against the persons who are instrumental for inducting them as members.

6. In such view of the matter, allowing such members, namely, 45 members to participate in the meeting would amount to their being the fudge of their own cause. Such things cannot be allowed. Hence, it is made clear that 45 members, who have inducted third parties, though they continue to be the members of the club, are not entitled to participate in the EGM to vote. In respect of Agenda circulated by the Judge Commissioner, EGM has to take a decision as per the byelaws. It is also made clear that apart from 45 members, who have inducted third parties, 89 members who have entered in back door entry, also are not entitled to participate in the Extraordinary General body Meeting. The Judge Commissioner is required to inform those members about the order of this court. Since EGM notice has already been issued and fixed on 21.10.2018, the same shall go on, on the same day."

14. Perusal of the above order will show that the clarification which was consequentially issued was that the 89 plus

45 members were not entitled to participate or vote in the EGM and that those members have to be informed accordingly. In this context as regards the 89 members who were enrolled as members under children's quota, I had already taken a decision that they cannot be allowed to vote-vide the Minutes of Meeting dated 19.8.2018 held with the Learned Counsel representing the parties and that as regards the 45 members who were responsible for such enrolment, as they were members on the roll of the Club and as there were no specific directions by the Hon'ble Court barring them from taking part in the EGM, they cannot be prevented from taking part in the EGM. However, in the order of the Hon'ble Court dated 28-09-2018 as mentioned above, it was held that the said 89 plus 45 individuals were not entitled to take part in the EGM or to vote. In terms of the directions of the Hon'ble Court separate communications were sent by Speed Post informing the 89 plus 45 members that in terms of the order of the court they are not entitled to participate in the EGM. The General Manager was also directed to inform the members duly by putting up the same on the notice board of the Club. A general "Instructions To Members" was also prepared and put on the Club's Notice Board as well as kept at the entrance of the Meeting Hall on the day of the Meeting. The said Notice of Instructions is filed herewith as Annexure No.8.

15. On the day of the EGM my assisting gentlemen and myself assembled an hour prior to the meeting and all the arrangements were taken note of. Certain requests were made as to whether the members could use the facilities of the club and for the said purpose enter the club. It was made clear that there was no prohibition for the members to use the Club, whether they were regular Members or Associate Members who had no voting right, to use the facility of the club including the rooms in which members were staying etc. The bar will be closed as well as the two halls in which the meeting was to be held and the hall in which the balloting was to be carried out (which have a

separate entrance), will be restricted to only Members who are entitled to take part in the EGM and to vote and nobody else will be allowed to have access of the said portion of the building. A lengthy barricade of table at one stretch was put up at one end of the hall for the purpose of scrutinising the identity and the membership card and the scrutinizers will be seated to check the identity. The members will approach them and in order to avoid large crowd presenting themselves for identity and to receive the ballot, life members and regular members were allotted separate tables by groups divided according to the alphabetical order. Apart from the scrutiny to be carried out on the production of the card, verification by computer was also simultaneously made available, since the club has the facility of the said system.

16. Immediately after 10.30 a.m., after the minimum number of members sufficient to constitute the quorum had arrived and were seated, the meeting commenced. I took the Chair and after welcoming the members, I explained the Members the back ground in which the Hon'ble High Court appointed me as Judge Commissioner and that the object of the EGM was to facilitate the members to take a final decision in the context of the two subject items which had been circulated to the Members along with the notice for EGM. I also read out verbatim, the judgment of the High Court dated 24.7.2018 from para 13 to the end and informed that the 89 members who had been enrolled under children's quota were really not the kith and kin of the members. I also pointed out that the Hon'ble Court had very strongly found that their enrolment was against the very byelaws of the club and they had become members through back door and that the Hon'ble Court had left the matter to be ultimately decided by the EGM. It was therefore for the EGM to decide as to whether the said 89 members should be removed or not and whether any action has to be taken against the 45 members who were involved in enrolling the 89 members. Therefore it was for the members to decide the issue and the outcome shall be their

own decision.

17. The Members were also informed about the process of verification / identification for which the Membership Card containing the photographs of the members has to be produced. A section of the Members had represented that many old members were not in possession of the Membership card and that all the members had been provided with a Cash Card which also contains the photograph of the respective members. I had verified with the General Manager regarding the same and I was informed that all the members have been supplied with Cash Card also. Further the system maintained by the Club will also show whether a particular individual was a valid member or not which can also be verified. As the said request was reasonable, I informed the Members that for identification purpose, they may produce either the Membership Card or the Cash Card which will be cross verified with the computer system and the identified members will be furnished with two ballot papers, one in 'rose colour' and the other in yellow colour'. The ballot shall be marked by the marking stamp which will be kept in the booths and that each ballot shall be stamped only with one mark in one of the two alternative boxes contained in the two ballot papers and if two marks are found in the same ballot paper, the same shall be treated as invalid'.

18. In the presence of all the members in the hall, the ballot boxes were opened and shown to be empty. Then they were locked and the locks were sealed. This was followed by the process of scrutiny of identification and supply ballot of papers, after obtaining signature of each member in a separate list maintained by us. It was followed by supplying of ballot papers and the balloting was conducted in the adjoining hall. The process of voting was closed at 4.30 p.m.

19. Totally, 848 members had voted. At this juncture I should point out that in the Register maintained by the club for the members to sign before AGM/EGM, only 750 had signed the register. It was observed that the staff of the club had not been strict in obtaining the signatures from all

of the members who were allowed to enter into the hall where the EGM was held when some of them had come in groups which had resulted in some of them entering the hall without signing the register. This did not have any impact on the voting process. The identity of each member has been checked with the membership / cash card and had been cross checked in an effective manner as detailed above by the computer system and while issuing the ballot paper to each member, signature has also been obtained in a separate register maintained by us. We have no control over the register maintained by the staff of the Club.

20. After the balloting was over, the boxes were brought to the Meeting Hall. At 6.00 p.m. in the presence of the interested members, the seals were broken and the locks were opened. The process of the counting of the votes commenced. Firstly, the Rose ballots were separated from the Yellow ballots and put in a separate box. Thereafter the counting was followed by Mr.V. Srikanth handing over each ballot to me and myself announcing over the amplifier on scrutinising each of the ballot and by mentioning the number (1) as or to (2) as indicated in the ballot. Thereafter they were bundled separately, each bundle containing 25 votes. On the conclusion of the process, the results were announced as follows:

Agenda Item No. 1: Whether the 89 members are to be regularised or removed - Rose ballot

To be regularized	-	536
To be removed Invalid votes	-	310
Invalid Votes	-	1
		
Total	-	847

Agenda Item No.2: Whether action to be taken against the 45 members / or no action - Yellow ballot

Action need not be taken	-	532
Action to be taken	-	312
Invalid votes	-	4
		
Total	-	848

21.The results were declared as above after which the meeting was closed. Minutes of the EGM was immediately drawn up thereon by me and a signed copy of the same was harided over to the General Manager of the Club. A copy of the Minutes of the EGM is filed herewith as Annexure No.-9.

22.Prior to the EGM, the Club has given to me a cheque for a sum of Rs. 1,80,000/- (after deducting TDS). I had instructed the office of the Club to issue cheque in favour of Mr. V. Srikanth, Advocate towards a part of his remuneration and to meet several expenses which were incurred such as printing of the ballots video graphing the entire EGM and the balloting process, which was also complied with by the Club. A list of expenses with the bills will be passed on to the office of the Club.

112.From a reading of the above report, it is evident that the majority of the members present at the said meeting defeated the attempt of the appellants. For Agenda No.1, 536 persons voted for regularisation and 310 against.

113.For Agenda No.2, 532 members voted against initiation of any proceedings and only 312 members voted for action to be taken against the parent members.

114.Post Extraordinary General Body Meeting, the learned Judge Commissioner also held a meeting on 19.11.2018 with the office bearers of the Association/club and respective counsels for the plaintiffs in C.S.No.278 of 2017, C.S.No.758 of 2015 & Tr.C.S.No.170 of 2018 and asked them to obtain a fresh clarification from the Honourable Single Judge of the High Court to proceed further. However, no further clarification was obtained from the learned single judge by the appellants. Instead, these appeals have been filed.

115.We are of the view that the agenda fixed by the learned Judge Commissioner pursuant to the order of the Learned Single Judge cannot be faulted as it was in compliance of the order of this Court.

116.The present appeal filed by the appellant in O.S.A.No.452 of 2018 was supported by another disgruntled member of Club namely M.S Moorty in O.S.A.No.476 of 2018 and tacitly by the members in the management of the Club/Association and few other who got impleaded. They have scuttled election to be held pursuant to the order of the Learned Judge.

117.In our view, appellants himself was responsible for a summary disposal of the suit by supporting the prayer in A.No.8391 of 2017 and A.No.2593 of 2018 which culminated in appointment of a Judge Commissioner for conduct of the Extra General Body Meeting and Election. This exercise cannot be dismantled now in these appeals

118.The appellant himself welcomed the appointment of a Judge Commissioner. The Judge Commissioner has merely complied with the order of the Learned Single Judge. The appellant also participated in the meeting held on 31.10.2018. Thus, the appellant also acquiesced into the order of the Learned Single Judge by participating in the meeting held on 31.10.2018 pursuant to modification order passed on 28.9.2018.

119.The contention that 89 persons became members of the Club/Association by the 45 parent members in a fraudulent manner with the help of the office bearers of the Association at a different point of time cannot be countenanced as majority of the members have decided against the motion for their removal in an EGM held on 31.10.2018.

120.Further, the scope of enquiry in the present appeal cannot be on the merits of the decision of the members in the meeting particularly when the management of the committee of the club had itself failed to remain neutral body.

121.Further, the judgement and decree passed in the suit though without trial cannot be challenged based on the outcome of the steps taken pursuant to decision of the court. At best, it may have given a fresh cause of action to the appellants but certainly not a ground for appeal.

122.It cannot be said that the appellant is an

aggrieved person merely because the outcome of the learned Single Judge in the Extraordinary General Body Meeting held on 21.10.2018 under the Chairmanship of the Learned Judge Commissioner was not to the liking of the appellants.

123.We are not inclined to interfere as the appellant not only invited the consequence but also participated in the EGM on 21.10.2018. In our view, the earlier attempt to remove the members pursuant to the report of the Fact-Finding Committee on 5.10.2014 in a so-called Extra Gen Body Meeting of the Club/Association just within 2 days on 07.06.2015 itself was contrary to Byelaw No. 18 of Club/Association as Byelaw No.18 which contemplates 21 days notice for holding Extraordinary General Body Meeting to the members of the same manner as Annual General Body Meeting.

124.It was perhaps in this background, the learned judge noted that the managing committee of the club was not itself acting in a fair manner and therefore allowed Application No. 8391 of 2017 filed by the club and Application No. 2593 of 2018 filed by the plaintiff Narasa Reddy Kondlupudi in C.S No.758 of 2015 vide the impugned order.

125.These applications were actively supported by the appellant Mr.S.Seshadri himself. What is complained the present appeal is the consequences flowing from the order of the learned single judge after the appellant also participated in the meeting conducted by the learned Judge Commissioner pursuant to order dated 24.7.2018 as modified by an order dated 28.9.2018 which at best may have given to a separate cause of action but not reason.

126.Convolutd and myriad legal submissions made to assail the judgment and decree of the learned single judge do not impress us. In our view, both the appeals are not bonafide.

127.The fact that the appeal has been filed only 16.11.2018 and not before also clearly establishes that the attempt of the appellant is to dismantle and deconstruct the decision of the majority in the Extraordinary General Meeting held on 31.10.2018 under the supervision of the Learned Judge Commissioner after acquising into it.

128.We are therefore of the view that the present attempt of the appellant in O.S.A.No.452 of 2018 to scuttle the election proceedings and to prolong the litigation after the majority of the members present at the meeting held on 21.10.2018 defeated the concerted effort of the appellant and some of the members of the managing committee and few others cannot be allowed.

129.Therefore, we are of the view that the appeal filed by the respective appellants and assiduously supported by the Managing Committee of the club elected earlier is liable to fail either way. The appellants are seen supporting them and fighting a proxy battle on behalf of the members who are holding post in the Club/Association and have ensconced themselves to power. Their term would have normally expired earlier. They are attempting to latch on to the post by prolonging the litigation and thereby subverting the steps taken by the court appointed Judge Commissioner by postponing the holding of election pursuant to order dated 24.07.2018.

130.Therefore, we are of view that both the appeals filed by the respective appellants raising the bogey of the alleged violation of the byelaws in the agenda fixed by the Learned Judge Commissioner pursuant to order of the Learned Single Judge requires no difference.

131.From the records, it is seen that the learned Judge Commissioner has taken considerable steps to implement the orders of learned Single Judge to conduct EGM on 21.10.2018. However, the conduct of the election is still awaiting due to the pendency of the present Appeals.

132.The learned Judge Commissioner shall therefore fix a convenient date for the proposed election. Such electoral process may be completed before the end of December 2019, so that, a newly elected office bearers of the Association/Club can assume office latest by 01.01.2020.

133.The current officer bearers are therefore directed to co-operate with the learned Judge Commissioner without further demur.

134.We note that by an order dated 24.07.2018, learned Single Judge had fixed an initial remuneration of Rs.2,00,000/ payable to the learned Judge Commissioner.

We are therefore directing the respondent Club/Association to pay another sum of Rs.3,00,000/- as additional remuneration to the learned Judge Commissioner for completing the election process by notifying a date. The additional remuneration shall be paid by the Association/Club within seven days from the date of receipt of a copy of this order. If desired, the learned Judge Commissioner may file suitable memo in the above suits for additional remuneration.

135. In our view, both the appeals are not bonafide and are liable to be dismissed. Both Original Side Appeals are dismissed with the above observations. No cost. Consequently, connected all Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

The Hon'ble Mr. Justice K.P. Sivasubramaniam

(Retired Judge), High Court, Madras)

No.47, Pulla Avenue, Chennai-600 030.

Copy to:

The Sub Assistant Registrar, Criminal Section,
High Court, Madras

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+1cc to Mr. S. Thankasvan, Advocate SR.No. 85272

O.S.A.Nos.452 & 476 of 2018

and

C.M.P.Nos.20739 & 22859 of 2018

and

C.M.P.Nos.3614, 3638, 5542

& 12352 of 2019

A.SK(18/10/2019)