



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2019

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P. (PD) (MD)No.856 of 2011

and

M.P. (MD) No.1 of 2011

WEB COPY

- 1.P.Mohamed Saleem
- 2.Habibullah
- 3.Kareemgani
- 4.A.Vaguthar Ali
- 5.Azath
- 6.Mohamed Kareem
- 7.Mohamed Myaheem
- 8.Askoor Khan
- 9.Pitchai Mohamed
- 10.Mohamed Ibrahimsha
- 11.Mohamed Ibrahimsha
- 12.J.Sikkandar
- 13.Liyakath Ali
- 14.Abdul Bias
- 15.A.Yoosuf
- 16.Savukath Ali Jinnah
- 17.A.Alavudeen
- 18.Abdul Muthalif
- 19.Midhar Hussain
- 20.Abdul Raheem
- 21.Mohamed Mustafa
- 22.P.Ansar Ali
- 23.Mohamed Sulaiman
- 24.Mohamed Meera
- 25.Samsudheen
- 26.S.M.Sikkandar
- 27.S.Habeeb
- 28.S.M.A.Uzman Ali
- 29.Rasoolkhan
- 30.Jiyavudeen
- 31.V.Sikkandar
- 32.S.E.R.Mohamed Yoosuf
- 33.M.Abdul Raheem
- 34.A.Jainulabdeen
- 35.R.Jabbar
- 36.Sheik Abdullah
- 37.Mohamed Ismail
- 38.Dawood
- 39.Mohaideen Gani
- 40.Sabi Mohamed
- 41.Sheik Mydeen
42. Shajahan
- 43.V.R.K.Yoosuf



44.V.R.K.Alavudheen
45.Khaja Najmudheen
46.M.L.Mohamed Ali
47.Mohamed Haneefa
48. S.Mohammed
49.Mohamed Rabi
50.Mohamed Sabi
51.S.Mohamed Ibraheem
52.Mansoor Ali
53.Peer Mohamed
54.Sikkandar
55.Ithrishkan
56.Shahul Hameed
57.Saleem
58.Uthuman Ali
59.Sathik Batcha
60.Yoonus
61.Liyagath Ali
62.Iyoob Khan
63.Gows Mohamed
64.Jainulavudheen
65.Shahul Hameed
66.Nijam Mohaideen
67.Jaleel
68. Shahul Hameed
69.Subuhan
70.Jalaludheen

... Petitioners /Petitioners
1 to 9, 11 to 54, 56 to 72
Proposed Defendants

Vs.

1.Asaitambi
2.Khadar Basha
3.Mohamed Ali Jinnah
4.Mohamed Ali
5.District Registrar
District Registrar Office,
Tiruppathur Road,
Sivagangai Nagar,
Sivagangai District.

..1st Respondent/1st Respondent/Plaintiff

6.District Education Officer,
Sivagangai.

7.S.Ravuthar Naina

8,Umar

9.A.S.Abdul Razak



10.Mohamed Hussain

11.K.Peroskhan

12.M.Saibullah

13.P.Y.Sikkandar

14.K.S.K.Mohamed Ali

15.K.E.Safekhan

16.S.Shajahan

17.Hayathkhan

18. S.Sandi Jinnah ..Respondents 2 to 18/Respondents 2 to 18/
Defendants

19.Ramzan Ali ...19th Respondent/10th Petitioner

20. Malik ... 20th Respondent/55th Petitioner/
Proposed Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the Order and decreetal order dated 23.11.2010 made in I.A.No.31 of 2010 in O.S.No.50 of 2008 on the file of the District Munsif Court cum Judicial Magistrate, Ilayankudi.

For Petitioner : Mr.V.Nagarajan

For R2 - R4 : Mr.A.Arumugam
for M/s Ajmal Associates

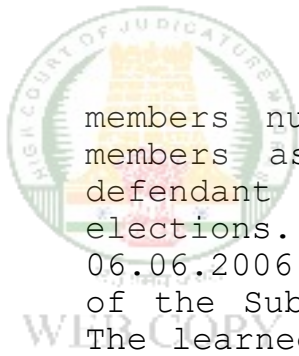
For R7 - R18 : Mr.G.Vidyamaheswaran

O R D E R

The proposed parties are the revision petitioners before this Court.

2. The brief facts necessary for disposing of this revision, without traversing into factual details, are as follows:

2.i) The father-in-law of the plaintiff in O.S.No.50 of 2008 had earlier filed a suit in O.S.14 of 2005 on the file of the District Munsif Court, Ilayangudi for declaring the Elections that were held for the period starting from 1991 to 1993 and ending to 2003-2005 as null and void, and to declare the inclusion of new



members numbering 400 as void as they were not eligible to be members as per the by-laws of the Society, directing the 15th defendant either by himself or supporting to conduct the future elections. The said suit was decreed by decree and judgment dated 06.06.2006 as against which A.S.No.71 of 2006 was filed on the file of the Subordinate Court, Sivagangai, by the aggrieved defendants. The learned Subordinate Judge, Sivagangai was pleased to remit back the matter and the same has been challenged before this Court in C.M.A.No.1430 of 2008 and there is an order of stay of all further proceedings in the earlier proceedings.

2.ii) After remand order by the learned Subordinate Judge, Sivagangai in A.S.No.71 of 2008, the present petitioner has filed O.S.No.50 of 2008 on the file of the District Munsif, Ilayangudi seeking reliefs with reference to the election that had been held from the period 2006 onwards. The present petitioners had taken out the petition to implead themselves in the suit O.S.No.50 of 2008 application after the suit was posted on 17.2.2010 for cross examination of P.W.1. The only ground put forward for seeking to have themselves impleaded is that they are the members of the management of the Haji Ibrahim Ali Higher Secondary School, which is not the party to the proceedings. The respondent/plaintiff had filed the counter *inter alia* contending that the petitioners had been deleted from array of membership of the management and the voters list that had been given by the respondents dated 07.10.2015 had been approved by the court and therefore the present petition is not maintainable.

2.iii) The learned District Munsif, Ilayangudi by his order dated 23.11.2010 was pleased to dismiss this application on the ground that the suit had reached an advanced stage and no relief was sought for against the proposed party and therefore, they are neither proper nor necessary party. This order has been challenged by the revision petitioners/proposed parties.

3. The learned counsel for the respondent has reiterated the contents that has been in the impugned order that has been the subject matter of this writ petition.

4. Heard the learned counsels and perused the papers.

5. A reading of the records would indicate that in the earlier suit O.S.NO.50 of 2008 the petitioners were deleted from the membership of the suit management. This has been challenged. The petitioners cannot compel the plaintiff, who is the *dominus litus*, to implead them. Further they are neither proper nor necessary parties to this suit. In these circumstances and considering the fact that no relief is sought for against the proposed parties, I do not find infirmity in the order passed by the District Munsif Court cum Judicial Magistrate, Ilayankudi in I.A.No.31 of 2010 in



6. In fine, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

CM

To

The District Munsif Court cum Judicial Magistrate,
Ilayankudi.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-97699[F] dated
12/11/2019)

C.R.P. (PD) (MD) No.856 of 2011

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VB(11.12.2019) 5P 3C