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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2019

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**C.R.P. (MD)No.611 of 2019
and C.M.P. (MD) No.3109 of 2019**

- 1.P.Raju,
Member,
Sri.VaradhaVenkataRamana VidhyalayaSabai,
(Reg. No.160/99),
D.No.120/1, East Street,
Venkatachalapuram,
Theni District.
- 2.T.R.PrubulaChandradoss,
Member,
Sri.VaradhaVenkataRamana VidhyalayaSabai,
(Reg. No.160/99),
D.No.214/2, P.L.L. Nagar,
Venkatachalapuram,
Theni District - 625 534. ... Petitioners/Petitioner/Plaintiffs

Vs.

- 1.Sri.VaradhaVenkataRamana VidhyalayaSabai,
Reg. No.160/99,
D.No.103/A/3, West Street,
Venkatachalapuram,
Theni District.
- 2.P.V.Narayanan,
President,
Sri.VaradhaVenkataRamana VidhyalayaSabai,
Reg. No.160/99,
D.No.103/A/3, West Street,
Venkatachalapuram,
Theni District.
- 3.S.N.A.Anandhakumar,
Secretary,
Sri.VaradhaVenkataRamana VidhyalayaSabai,
Reg. No.160/99,
D.No.103/A/3, West Street,
Venkatachalapuram,
Theni District.



4.M.Sathiyan,
Treasurer,
Sri.VaradhaVenkataRamana VidhyalayaSabai,
Reg. No.160/99,
D.No.103/A/3, West Street,
Venkatachalapuram,
Theni District.

5.M.Padmapan,
The Chairman, Election Committee,
Sri.VaradhaVenkataRamana VidhyalayaSabai,
Reg. No.160/99,
D.No.103/A/3, West Street,
Venkatachalapuram,
Theni District.

6.A.Anandakumar,
Member of Election committee,
Sri.VaradhaVenkataRamana VidhyalayaSabai,
Reg. No.160/99,
D.No.103/A/3, West Street,
Venkatachalapuram,
Theni District.

7.R.Parasuraman,
Member of Election Committee,
Sri.VaradhaVenkataRamana VidhyalayaSabai,
Reg. No.160/99,
D.No.103/A/3, West Street,
Venkatachalapuram,
Theni District.

8.The District Registrar,
Society Registration,
District Registration Office,
Periyakulam, Theni District.

9.The District Collector,
District Collectorate Office,
Theni District.

... Respondents/Respondents/Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to direct the learned District Munsif, Theni to expeditiously dispose the pending I.A.No.2 of 2019 in O.S.No.19 of 2019 within the time stipulated by this Hon'ble Court.

For Petitioners

: Mrs.Krishnaveni
Senior Counsel for M/s.K.Parbu

**ORDER**

This Civil Revision Petition is filed under Article 227 of the Constitution of India for a direction to the learned District Munsif, Theni to dispose of I.A.No.2 of 2019 in O.S.No.19 of 2019 expeditiously within a time limit stipulated by this Court. Pending the Civil Revision Petition, the petitioner had also sought for a relief of interim injunction restraining the first respondent from convening society election on 24.03.2019 based on the General Body Meeting held on 24.02.2019 without following the procedure.

2.The facts leading to the filing of this Civil Revision Petition is as follows:-

(i) The petitioner is a member of the Society viz., Sri VaradhaVenkataRamana VidhyalayaSabai (for brevity it can be called as "Society"), which is running two schools viz., Sri VaradhaVenkataRamana Elementary School and Sri VaradhaVenkataRamana Higher Secondary School at Venkatachalapuram. The Society is a registered Society bearing registration No.160 of 1999 and the Society is governed by the Administrative Committee comprising of 16 members. The election was conducted for the Administrative Committee triennium 2015 - 2016 to 2017 - 2018, which ended on 29.08.2018. For electing the new office bearers, the Society called for the General Body Meeting on 19.08.2018 by giving 21 days' advance notice on 25.07.2018 for the purpose of inclusion of 136 new members and for conducting the election.

(ii) This General Body Meeting dated 19.08.2018, was challenged before the District Munsif Court, Theni and also an injunction was sought for against the General Body Meeting in I.A.No.377 of 2018. The learned District Munsif, Theni by order dated 13.08.2018, granted injunction with regard to the General Body Meeting dated 19.08.2018. While so, the respondents 2 to 4 once again convened a Meeting on 23.09.2018, for which a separate application was filed in I.A.No.481 of 2018 with regard to the next proposed General Body Meeting.

(iii) The learned District Munsif Court, while entertaining that application has granted the relief in the earlier I.A.No.377 of 2018, which was filed for the General Body Meeting dated 19.08.2018 and therefore, the respondents 2 to 4 have filed a C.R.P. as against that order dated 24.09.2018 in C.R.P.(MD) No.2414 of 2018. In these circumstances, this Court considering the fact that the District Munsif Court is not supposed to have granted interim injunction with regard to the next General Body Meeting on 23.09.2018, when the relief sought for in I.A.No.377 of 2018 is only with regard to the General Body Meeting on 19.08.2018, granted interim suspension of the order.

(iv) In view of the interim suspension order in C.M.P.(MD) No.10776 of 2018 in C.R.P.(MD) No.2414 of 2018 dated 30.10.2018, the respondents 2 to 4 have proceeded with the General Body Meeting on 23.09.2019 and have included 136 new members to the Society. This newly included members have been approved by the District Registrar of Societies on 09.01.2019 and with this newly included members, a General Body was proposed on 24.02.2019 and a paper

publication was made on 23.01.2019. Only thereafter one G.Athimoolam Ex. President of the School Committee had obtained details through R.T.I. for the copy of the Form VI dated 09.01.2019, that was received on 27.02.2019 and that order was separately challenged before the Inspector General of Registration.

(v) Yet another member, one Ramamoorthy has filed a writ petition in W.P.(MD) No.4224 of 2019, challenging the notice dated 23.01.2019 published in the newspaper and for a relief of conducting the General Body Meeting on 24.02.2019 with the existing 212 members as per Form VI existing as on 29.08.2018. This writ petition was disposed of by this Court with a direction to the petitioner to file appropriate application before the competent Civil Court. This Court has also issued a direction to the first respondent therein/District Registrar to furnish the Form VI list to the writ petitioner. Only thereafter, the writ petitioner Athimoolam got copy of the Form VI existing as on 29.08.2018 and he has challenged the same before the Inspector General of Registration. Pursuant to the order of this Court in W.P.(MD) No.4224 of 2019, a suit was also filed before the District Munsif Court, Theni in O.S.No.19 of 2019 on 07.03.2019 to declare the resolutions dated 23.09.2018 and 24.02.2019 as null and void and other reliefs. An application for interim injunction was also sought for in I.A.No.2 of 2019 restraining the newly added 136 members from voting in the General Body Election. The learned District Munsif has ordered notice in I.A.No.2 of 2019 on 18.03.2019 and posted the case for hearing on 20.03.2019.

(vi) The learned Senior Counsel has submitted that in the suit notice was also taken and except the first defendant all the defendants have entered appearance. The case was also taken up for hearing on 22.03.2019, considering the urgency of the matter that the election is scheduled on 24.03.2019. But the learned District Munsif, has simply posted the matter on 08.04.2019 without passing any order and thereby the I.A. will automatically become infructuous. Hence, the petitioner has moved this Civil Revision Petition urgently under Article 227 of the Constitution of India.

3.Heard Mrs.Krishnaveni, learned Senior Counsel appearing for the petitioner and also perused the records.

4.At the outset, this Civil Revision Petition under Article 227 of the Constitution of India cannot be maintained at this stage. The High Court can invoke the jurisdiction under Article 227 of the Constitution of India in case of grave dereliction of duty, flagrant error of law or grave injustice would be done. When the Court below is without any evidence to justify its conclusion or the finding is perverse in law this Court can interfere to a limited extent and apart from that the High Court has no jurisdiction to interfere with the finding of facts recorded by the Court below. In this given circumstances, as projected by the learned Senior Counsel, this Court does not find any material that the learned District Munsif has committed any grave dereliction of duty in entertaining the I.A.No.2 of 2019. The online B - Diary extract filed before this Court would reveal that the suit and I.A.



was filed on 11.03.2019 and it has been adjourned to 08.04.2019. The principles of Natural justice requires notice to the defendants more particularly the issue involved is election to a Society.

5. Though the proceedings dated 22.03.2019, is not available from the Online B - Diary extract produced before this Court, the learned Senior Counsel has submitted that the urgency has been specifically mentioned before the learned District Munsif Court. Therefore, a short notice was ordered on 18.03.2019 and was posted on 20.03.2019 and again on 22.03.2019. Thereafter, an elaborate arguments was made and except the first defendant all the defendants have entered appearance while so, the learned District Munsif ought to have passed an order on the interim order in the I.A. in the given circumstances of the case. The failure on the part of Court to pass order is grave dereliction of duty and therefore, the interference of this Court is warranted.

6. This Court is not in acceptance of the submissions of the learned Senior Counsel that when the suit itself was filed on 11.03.2019, it cannot be inferred that the Court below has committed a grave dereliction of duty by not passing an order ex-parte in I.A.No.2 of 2019. Therefore, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

7. However, the facts, which have been projected by the learned Senior Counsel would disclose that nearly 136 members have been inducted to the Society only on 09.01.2019 and the Form VI copy has been furnished to the petitioner's side only on 27.02.2019 and that too after direction of this Court in W.P.(MD) No.4224 of 2019. Based on this new office bearers election has been scheduled on 24.03.2019 and in the last minute the petitioners are before this Court. Since it is an election process, normally the Courts are reluctant in giving interim stay in view of the guidelines given by the Hon'ble Supreme Court and this Court. But in the given circumstances, it appears, the election is scheduled with the newly added 136 members and if the entire election process is completed, the suit itself would become infructuous. Therefore, in the interest of justice, the learned District Munsif, Theni, shall complete the trial in O.S.No.19 of 2019 within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(co)

// True Copy //

Sub Assistant Registrar(CS)

sj



To

1. The District Registrar,
Society Registration,
District Registration Office,
Periyakulam, Theni District.

2. The District Collector,
District Collectorate Office,
Theni District.

**C.R.P. (MD) No. 611 of 2019
and C.M.P. (MD) No. 3109 of 2019
23.03.2019**

DB (CO)
TR (17.06.2019) 8P 3C