



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE **T.S. SIVAGNANAM**

and

THE HONOURABLE MRS. JUSTICE **R. THARANI**

W.P. (MD) No. 18775 of 2019, Cont.P. (MD) No. 348 of 2016,

W.A. (MD) No. 692 of 2014,

W.P. (MD) No. 1121 of 2016, W.P. (MD) No. 11866 of 2017,

and W.P. (MD) No. 6077 of 2013

and

W.M.P. (MD) Nos. 15113 and 15117 of 2019,

and W.M.P. (MD) Nos. 17761, 3582, 937 and 938 of 2016

and W.M.P. (MD) Nos. 4144 and 9132 of 2017

W.P. (MD) No. 18775 of 2019

Hindu Nadar Uravin Murai Sangam (Reg.No.84 of 2000)
Thiruchuli, Thiruchuli Taluk,
Virudhunagar District
represented by its Interim Property Protector
and Election Committee ... Petitioner

Vs

1. The District Registrar of Societies,
Virudhunagar, Virudhunagar District.
2. The District Educational Officer,
Aruppukottai, Virudhunagar District.
3. The Assistant Elementary Educational Officer,
Reddiyapatti, Virudhunagar District.
4. T.U.N.S. Vaidyalinga Nadar Higher Secondary School,
Tiruchuzhi, Thiruchuzhi Taluk, Virudhunagar District,
represented by its Headmaster
(Since it is under Direct Payment)
5. Hindu Nadar Satriya Vidyasala Primary School,
Thiruchuzhi, Thiruchuzhi Taluk, Virudhunagar District,
represented by its Head master
(Since it is under Direct Payment)



6.Hindu Nadar Uravin Murai Sangam (Reg.No.84 of 2000)
Thiruchuzhi, Thiruchuzhi Taluk, Virudhunagar District,
represented by its President.

7.P.Chinnarajan

8.V.P.T.Mathiprakash

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent herein to conduct an election for the sixth respondent society and 4th and 5th respondents school's Educational Agency under the control of an Advocate Commissioner.

For Petitioner : Mr.T.Pon Ramkumar

For R1 to R3 : Mr.M.Murugan
Government Advocate

For R4 to R6 : No appearance

For R7 and R8 : Mr.A.V.Arun

CONT P(MD). 348/ 2016

V.P.T.Mathiprakash,

... Petitioner

- Vs. -

Mr.S.Santhanam,
The District Registrar of Societies,
Virudhunagar District.

... Respondent

Prayer in CONT P(MD). 348 of 2016 :

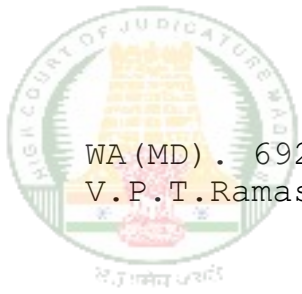
To punish the respondent for his willful disobedience of order passed by this Honourable Court in W.P. (MD) No.15405 of 2014 dated 21.07.2015.

Prayer in WP(MD). 15405 of 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus to call for the records relating to the impugned order dated 17.03.2014 in letter 17/E1/2014 on the file of the 2nd Respondent and quash the same and consequently direct the 2nd Respondent to register the Form 7 Submitted on 31.01.2014 .

For Petitioner : Mr.T.Pon Ram Kumar

For Respondent : Mr.A.K.Baskara Pandian,
Special Government Pleader



WA (MD). 692/ 2014
V.P.T.Ramasamy Nadar,

... Petitioner

- Vs. -

1. The District Registrar Of Societies,
Virudhunagar District.

2. The District Educational Officer,
Aruppukottai, Virudhunagar District.

3. The Assistant Elementary Educational Officer,
Reddiyapatti, Virudhunagar District.

4. T.U.N.S.Vaidyalinga Nadar
Higher Secondary School, Thiruchuzhi, Thiruchuzhi Taluk,
Virudhunagar District.
Rep.By its Headmaster
(Since It is Under Direct Payment)

5. Hindu Nadar Satriya Vidyasala Primary School, Thiruchuzhi,
Thiruchuzhi Taluk, Virudhunagar District.
Rep.By its Secretary.

6. Hindu Nadar Uravin Murai Sangam (Reg.No.84 of 2000)
Thiruchuzhi Taluk, Virudhunagar District
Rep.By its President.

7. The Manager,
The State Bank of India, Thiruchuzhi,
Thiruchuzhi Taluk,
Virudhunagar District.

8. P.Chinnarajan,
9. G.Selvarajan,
10. A.B.Birla Rajesh,
11. A.Arunachalam,
12. T.Balasubramanian,
13. N.Sangaralingam,
14. V.Vel Muniyandi,
15. R.Ponvannan,

... Respondents

Prayer in WA (MD). 692/ 2014 :

This Writ Appeal is filed Under Clause-15
of the Letters Patent praying to set aside the order dated
28.03.2014 in W.P. (MD). No.5469 of 2013, allow the writ appeal as
prayed for



Prayer in WP(MD). 5469/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, in the nature of writ , calling for the records of the first respondent herein dated 23.11.2012 relating to grant approval of the Form VII of the 6th respondent society submitted by the respondnets 8 to 15 under Form No. 223 of 2012 and quash the same and consequently direct the 1st respondent herein to conduct an election for the 6th respondent society and 4th and 5th respondents school's Educational Agency under the control of an Advocate Commissioner and pass such further or other orders.

For Petitioner	: Mr.T.Pon Ram Kumar
For R1	: Mr.M.Murugan, Government Advocate
for R2 and R3	: M/s.S.Srimathy, Special Government Pleader
for R10	: Mr.A.V.Arun, Advocate
For R4 to R9, R11 to R15	: No Appearance

WP(MD). 1121/ 2016

V.P.T.Mathiprakash

... Petitioner

- Vs. -

1. The District Registrar Of Societies,
Virudhunagar, Virudhunagar Dist

2. The District Educational Officer,
Aruppukottai, Virudhunagar Dist

3. The Assistant Elementary Educational Officer, Reddiyapatti,
Virudhunagar Dist

4. T.U.N.S. Vaidyalinga Nadar Higher Secondary School,
Thiruchuzhi, Thiruchuzhi Taluk, Virudhunagar District Rep. by its
Headmaster (Since It is Under Direct Payment)

5. Hindu Nadar Satriya Vidyasala Primary School, Thiruchuzhi,
Thiruchuzhi Tk., Virudhunagar District Rep. by its Headmaster (Since
It is Under Direct Payment)

6. P.Chinnarajan

7. A.B.Birla Rajesh



8. Hindu Nadar Urvain Murai Sangam (Reg.No.84/2000) Thiruchuzhi, Thiruchuzhi Taluk, Virudhunagar District. Rep. by its Secretary. (R8 is Impleaded Vide Court Order District 24/01/17 in WMP(MD).604/17) ... Respondents

Prayer in WP(MD). 1121/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus or any other Writ or Order or Direction in the nature of Certiorarified Mandamus calling for the records of the first respondent herein dated 23.12.2015 relating to granting approval of the Form VII submitted for the Hindu Nadar Uravinmurai Sangam (Registration No.84 of 2000), Tiruchuli, and the 4th and 5th respondent school submitted by the respondents 6 and 7 and quash the same and consequently direct the 1st respondent herein to conduct an election for the Hindu Nadar Uravinmurai Sangam (Registration No.84 of 2000), Tiruchuli, and 4th and 5th respondents school's Educational Agency under the control of an Advocate Commissioner.

For Petitioner : Mr.T.Pon Ram Kumar
For R1 to R3 : M/s.S.Srimathy,
Special Government Pleader
For R4 to R7 : Mr.A.V.Arun,
For R8 : Mr.P.Santhosh kumar

WP(MD). 11866/ 2017
Hindu Nadargal Uravinmurai Sangam,
Tiruchuli(Reg.No. 84/2000),
Rep. by its Continuing Secretary, A.P.Birla Rajesh,
... Petitioner

- Vs. -

1. The Superintendent of Police
Virudhunagar District, Virudhunagar.
2. The District Registrar (Societies),
Virudhunagar, Virudhunagar District.
3. The Inspector of Police,
Tiruchuli Police Station, Tiruchuli,
Virudhunagar District.
4. V.P.T. Mathiprakash ... Respondents

Prayer in WP(MD). 11866/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents 1 to 3 to give police protection to the petitioner sangam(Hindu Nadargal Uravinmurai Sangam, Tiruchuli, reg.NO. 84/2000) to carry on its day to day affairs through the continuing Secretary till the declaration of the results of the election to the office bearers held on 18.01.2017.



For Petitioner : Mr.A.V.Arun
For R1 to R3 : Mr.A.K.Baskara Pandian,
Special Government Pleader
For R4 : Mr.T.Pon Ram Kumar

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WP(MD). 6077/ 2013

Tiruchuli Hindu Nadar Uravinmurai Society,
(Registered No.84 of 2000)

Rep. by its President, Chinnarajan,
S/o. Periyasamy Nadar, North St.,
Thathaiya Nadar Lane, Tiruchuli,
Virudhunagar District

... Petitioner

- Vs. -

The Branch Manager State Bank of India,
Tiruchuli Branch, Virudhunagar District.

... Respondent

Prayer in WP(MD). 6077/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to permit us to operate the bank account No.30304349997 State Bank of India, Tiruchuli Branch, Virudhunagar District.

For Petitioner : No Appearance
For R1 : NA

COMMON ORDER

(Order of the Court was made by **T.S.SIVAGNANAM, J.**)

The present cases are a classical example as to how brothers can become enemies. People of the same community, organizations have become arch rivals. The victim of the personal animosity, ego clash is the Educational institutions which have been established by the organization, largely not out of the funds of the persons who are now at logger heads probably by their fathers and forefathers. The helm of affairs at the present battle before this Court is reaping the benefits of the others done by their forefathers and elders. Small thought process is required by the persons who are the members of the society to dispassionately examine as whether there is any benefit on account of prolonged litigation except for ill feeling. The petitioner and the respondents probably have not realized that the disputes among them has not only stopped with them but would have seeped into their respective spouses, children and grand children.



2. We have elaborately heard the learned counsel Mr. T. Pon Ramkumar for one of the warring group and Mr. A. V. Arun, learned counsel for the opposite side who was also known as a warrior. This is the case before us.

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3. The earliest dispute raised is a Writ Petition in W.P. (MD) No. 6077 of 2013 which was filed by Thiruchuli Hindu Nadar Uravinmurai Sangam to operate the bank account. In our considered view nothing would survive in the writ petition because thereafter two elections have been conducted, though there is a dispute as regards the manner in which such elections were conducted. Hence, W.P. (MD) No. 6077 of 2013 requires to be closed as nothing further survives for adjudication.

4. W.A. No. 692 of 2014 is an appeal filed by V. P. T. Ramasamy Nadar, challenging the order passed in the Writ Petition filed by him in which, he sought for a prayer to conduct election for the period from 2011-2014. The reason being that he challenged the election conducted by the other group which according to the appellant, V. P. T. Ramasamy Nadar was illegal on account of improper publication of notice of election etc. The writ petition was dismissed. In our considered view no useful purpose will be served adjudicating the dispute in W.A. No. 692 of 2014, since the cause of action arose for the period 2011-2014 which is already over. Therefore, W.A. No. 692 of 2014 also requires to be closed.

5. The next is a Writ Petition in W.P. (MD) No. 1121 of 2016 which has been filed by V. P. T. Mathiprakash, challenging the approval of the Form-VII filed by the respondents 4 to 8. This Form-VII declaration was for the election for the period from 2014 to 2017. The related matter is the contempt petition in Cont. P. (MD) No. 348 of 2016 to punish the contemnors on account of alleged violations of a final order in W.P. (MD) No. 15405 of 2014. Admittedly, the period of office was from 2014 to 2017 which has also expired. Thus these two cases also deserve to be closed.

6. Though the disputes between the parties are still simmering adjudication of these cases will be only an academic exercise. The only substantive matter which requires to be adjudicated is W.P. (MD) No. 18775 of 2019 which is the writ petition filed by the Hindu Nadar Uravin Murai Sangam represented by its interim property protector and election committee. The prayer sought for is to issue a writ of mandamus to direct the first respondent to conduct election to the sixth respondent society and 4 and 5 respondents' school education agency by appointing an Advocate Commissioner.

7. In the said Writ Petition an order of interim injunction was granted restraining the first respondent from approving the Form-VII declaration submitted by the respondents 7 and 8. This injunction



the order of injunction, restraining the first respondent from approving the Form-VII declaration filed by the respondents 7 and 8 the same has not been given effect. Therefore, even assuming that the elections were conducted, nothing turned out of such election because Form-VII is yet to be taken on file and recognized.

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8. By efflux of time, the elections which were conducted for the period from 2017 to 2018 pursuant to the directions issued by the Hon'ble Division Bench in W.A.No.33 of 2017 dated 18.01.2017 has outlived its purpose, because the period is coming to an end and hardly 45 days are left. Because of the interim order granted, the Form-VII declaration was not approved and consequently direction issued by the Hon'ble Division Bench in judgment dated 18.01.2017 has worked itself out. Hence, we have to direct fresh elections to be conducted for the period 2020 to 2023.

9. The learned counsel for the petitioner submitted that there large number of members of the Sangam were removed illegally and this is at the behest of the private respondents. Mr.A.V.Arun, learned counsel appearing for the private respondents has a bunch of allegations against the petitioner.

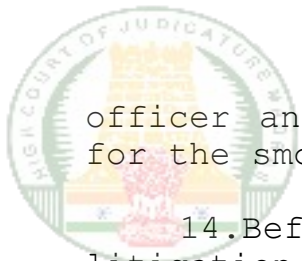
10. In our considered view, both parties have to agree that an election should be conducted in a proper and fair manner. Before which the list of members have to be placed before a neutral person and such neutral person should scrutinize the records and necessarily call for a meeting and hear the members who are stated to be about 150 in number and after examining of the records finalize the list of members after which he may draw the voters list, so that the elections can be notified and people willing to participate in the election can file their nominations.

11. We had given an option to the learned counsel on either side to suggest a name of a person who could be nominated to conduct the election of the Sangam. The learned counsel on both side stated that the Court may decide upon a suitable person, preferably a retired District Judge to conduct the election at the earliest.

12. In the light of the above W.P.No.6077 of 2013 is closed as Infructuous. W.P.(MD)No.1121 of 2016 is also closed for the reasons assigned above. W.A.No.692 of 2014 is closed for the reasons assigned above. Contempt Petition No.348 of 2016 is closed on account of closure and disposal of the W.P.(MD)No.15405 of 2014, consequently, W.P.(MD)No.11866 of 2017 is closed as infructuous.

13. W.P.No.18775 of 2019 is disposed of by directing the conduct of election to the Hindu Nadar Uravin Murai Sangam registered No.84 of 2000 for which purpose we nominate Mr.Karuppiyah, Retired District Judge, as the election officer who shall finalise the list of members at the first instance and there after conduct the election.

<https://hccservices.mca.gov.in/hccservices> to be followed shall be laid down by the election



officer and the parties are directed to extend their co-operation for the smooth conduct of elections.

14. Before we part, we like to observe that the parties to this litigation should not pursue the ill feeling among themselves and the litigations should terminate with these proceedings and should not be passed over as an asset to inherit.

15. We grant permission to the election officer to appoint a person to assist him in the proceedings, to finalize the list of members etc. While finalizing the voters list, the election officer shall examine as to why names of the members were removed and if it is found to be incorrect those members shall be reinducted. Before doing so a meeting shall be convened among all parties, so that there is no further litigation in the matter. The remuneration to the Election Officer shall be paid by the petitioner Sangam and since it is represented that the interim property protector has been nominated and who is the member of the society he shall produce all the accounts before the election officer who shall scrutinize the same and from and out of the amount collected, the remuneration payable to the election officer shall be paid and all the expenses connected and incidental there to, shall also be paid from the funds of the Sangam. We fix a remuneration of Rs.1,00,000/- (Rupees One Lakh only) payable to the election officer. The other expenses, including travel and other facilitates shall be met by the Sangam and remuneration payable to the officer nominated by the election officer Sangam shall also be paid by the Sangam. If there is any difficulty in operating the Bank Account of the Sangam, to pay the remuneration to the Election Officer, person assisting the Election Officer and meeting other expenses, the interim property protector shall meet all expenses and later reimbursed from the funds of the Sangam.

16. With these observations, W.P. (MD) No. 18775 of 2019 is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

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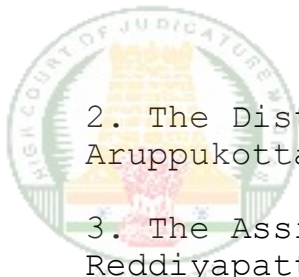
/ / 2020

Sub Assistant Registrar (CS)

pnn

To

1. The District Registrar of Societies,
Virudhunagar, Virudhunagar District.



2. The District Educational Officer,
Aruppukottai, Virudhunagar District.

3. The Assistant Elementary Educational Officer,
Reddiyapatti, Virudhunagar District.

4. S. Santhanam, The District Registrar of Societies,
Virudhunagar District.

5. The Superintendent of Police
Virudhunagar District, Virudhunagar.

6. The District Registrar (Societies),
Virudhunagar, Virudhunagar District.

7. The Inspector of Police,
Tiruchuli Police Station, Tiruchuli,
Virudhunagar District.

COPY TO.

MR. S. KARUPPIAH, DISTRICT JUDGE (RETD)
3/233 SARVODHAYA NAGAR,
ROJACROSS STREET, NEAR SBOA SCHOOL,
NAGAMALAIPUDUKOTTAI, MADURAI.

+2CC TO MR. T. PON RAM KUMAR, Advocate Sr. No. 101713
+1CC TO MR. A. V. ARUN, Advocate Sr. No. 101688
+1CC TO MR. S. SETHURAMAN, Advocate Sr. No. 101776
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR. No. 102362

W.P. (MD) No. 18775 of 2019,
Cont.P. (MD) No. 348 of 2016,
W.A. (MD) No. 692 of 2014,
W.P. (MD) No. 1121 of 2016,
W.P. (MD) No. 11866 of 2017,
and W.P. (MD) No. 6077 of 2013
26.11.2019

DP (CO)
TR (27.01.2020) 10P 14C