

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2020

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.1287 of 2013
and
MP Nos.1 and 2 of 2013

G.Sasirekha

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Petitioner

Vs

1. The Registrar of Newspapers
for India, Office of the Registrar
of Newspapers for India
Ministry of Information and
Broadcasting
West Block 8, Wing No.2,
R.K.Puram,
New Delhi - 110 066.

2. The Chief Metropolitan Magistrate,
Egmore,
Chennai - 600 008.

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Respondents

Writ Petition filed under Article 226 of the
Constitution of India to issue a Writ of Certiorarified
Mandamus to call for the records relating to the 1st
respondent's impugned letter in reference No.1747, dated
04.10.2012 and quash the same and consequently direct the 1st
respondent to register the title "Thina Thendral" in the category
of the Daily newspapers.

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For petitioner : Mr.K.Sakthivel

For respondents : Mr.S.Makesh,
ACGSC for R1

ORDER

This writ petition has been filed challenging the impugned letter in ref. No. 1747, dated 04.10.2012 issued by the first respondent and for a consequential direction to the first respondent to register the title "Thina Thendral" in the category of Daily Newspapers.

2. It is the case of the petitioner that she applied for Registration of her Newspaper under the Press and Registration of Books Act, 1867 (hereinafter referred to as "PRB Act, 1867") under any of the following titles (a) "Dhina Thendral", (b) "Seithy Sigaram" and (c) "Tamil Sigaram". According to the petitioner, the application was submitted before the second respondent to enable the second respondent to forward the application to the first respondent for verification of the titles and its availability. According to the petitioner, without proper application of mind, the first respondent has rejected all the titles viz., "Dhina Thendral", "Seithy Sigaram" and "Tamil Sigaram" under the impugned letter dated 04.10.2012. Aggrieved by the same, this writ petition has been filed.

3. A counter affidavit has also been filed by the first respondent stating that the writ petition is not maintainable, since final orders have not been passed under Section 6 of the "PRB Act, 1867" by the second respondent. It is also their case that there is an appellate statutory remedy available to the petitioner under Section 8(c) of the "PRB Act, 1867". Without exercising the statutory appellate remedy, the petitioner has filed this writ petition, which according to them is not maintainable.

4. Heard Mr.K.Sakthivel, learned counsel for the petitioner and Mr.S.Makesh, learned counsel for the first respondent.

Submissions of the learned counsels:

5. The learned counsel for the petitioner drew the attention of this Court to Section 5 of the PRB Act, 1867 which relates to Rules as to publication of Newspaper. In particular, he referred to Rule 2(a) of Section 5 as well as Section 6 of the "PRB Act, 1867". He also drew the attention of this Court to the application submitted by the petitioner before the second respondent for Registration of the petitioner's Newspaper. He submitted that the application makes it clear that for the purpose of title verification only, the second respondent has

forwarded the application to the first respondent. According to him, the second respondent has no role to play, as far as title verification is concerned. In such circumstances, he would submit that the writ petition is maintainable and Section 8 (c) of the "PRB Act, 1867", which provides for appeal under the Act will not apply to the fact of the instant case. According to him, by total non application of mind, the first respondent has issued the impugned letter as the title submitted by the petitioner is a valid title as no one is having the same title and is not deceptively similar.

6. Per contra, the learned counsel for the first respondent would submit that the petitioner has approached this Court prematurely since final orders have not been passed by the second respondent regarding authentication of declaration under Section 6 of "PRB Act, 1867". Further, he would submit that an alternate appellate remedy is also available to the petitioner under Section 8 (c) of "PRB Act, 1867". It is also his case that since the titles for the Newspaper submitted by the petitioner is deceptively similar to other Newspapers which are already in the market, the first respondent has rightly rejected the titles submitted by the petitioner.

Discussion :-

7. Section 6 of the Press and Registration of Books Act, 1867 reads as follows :-

"6. Authentication of declaration - Each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made :

[Provided that where any declaration is made and subscribed under section 5 in respect of a newspaper, the declaration shall not, save in the case of newspapers owned by the same person, be so authenticated unless the Magistrate is on inquiry from the Press Registrar, satisfied] that the newspaper proposed to be published does not bear a title which is the same as, or similar to, that of any other newspaper published either in the same language or in the same State.]

Deposit - One of the said originals shall be deposited among the records of the office of the Magistrate, and the other shall be deposited among the records of the High Court of Judicature or [other principal Civil

Court of original jurisdiction for the place where] the said declaration shall have been made.

Inspection and supply of copies - The Officer-in-charge of each original shall allow any person to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of two rupees."

[A copy of the declaration attested by the official seal of the Magistrate, or a copy of the order refusing to authenticate the declaration, shall be forwarded as soon as possible to the person making and subscribing the declaration and also to the Press Registrar.]

8. The proviso to Section 6 of the PRB Act, 1867 makes it clear that any authentication of declaration by the second respondent Magistrate can be done only after getting a report from the first respondent with regard to the acceptability of the titles submitted by the applicant for Registration of the Newspaper in any of the proposed titles. In the case on hand, the application was admittedly submitted by the petitioner only before the second respondent under "PRB Act, 1867". In accordance with Section 6 of the said "PRB Act, 1867", the second respondent has forwarded the application submitted by the petitioner for verification and acceptability of the title to the first respondent. On receipt of the said request, the first respondent has considered the application submitted by the petitioner for verification and acceptability of title under the impugned letter and has rejected all the titles on the ground that the proposed titles are not available in terms of proviso to section 6 of the PRB Act, 1867 wherein it is stated that the Newspaper proposed to be published should not bear a title which is same as or similar to that any of the newspaper published either in the same language or in the same state. The verification report of the first respondent with regard to the acceptability of the titles has also been sent to the second respondent by the first respondent. However, even before waiting for the decision of the second respondent as per the provisions of Section 6 of the PRB Act, 1867 the petitioner has prematurely filed this writ petition.

9. The Proviso to Section 6 of "PRB Act, 1867" makes it very clear that it is mandatory for the second respondent to get a report from the first respondent with regard to the verification and acceptability of titles submitted by the

applicant under "PRB Act, 1867". The second respondent has duly followed the procedure contemplated under Section 6 the "PRB Act, 1867". But, however as observed earlier the petitioner even before passing of the final order by the second respondent under Section 6 of "PRB Act, 1867" with regard to the authentication of declaration of the petitioner's Newspaper, the petitioner has approached this Court by filing this writ petition under Article 226 of the Constitution of India.

10. This Court is of the considered view that the writ petition has been filed prematurely in view of the reasons stated above. Further, there is an alternate, efficacious, appellate remedy available to the petitioner as against final orders passed by the second respondent under Section 6 of the PRB Act, 1867. Even though there was no necessity for the first respondent to communicate the impugned letter to the second respondent, the first respondent has communicated the same to the petitioner. But however, this cannot be a ground for filing this writ petition as the second respondent has followed the right procedure as contemplated under the proviso to Section 6 of the "PRB Act, 1867". Just because the first respondent has communicated through the impugned letter, the rejection of the titles submitted by the petitioner, the petitioner is not empowered to approach this Court under Article 226 of the Constitution of India, even before final orders are passed by the second respondent under Section 6 of the PRB Act, 1867.

11. For the foregoing reasons, this Court is of the considered view that there is no merit in this writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

vsi2

To

1. The Registrar of Newspapers
for India, Office of the Registrar
of Newspapers for India
Ministry of Information and
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West Block 8, Wing No.2,
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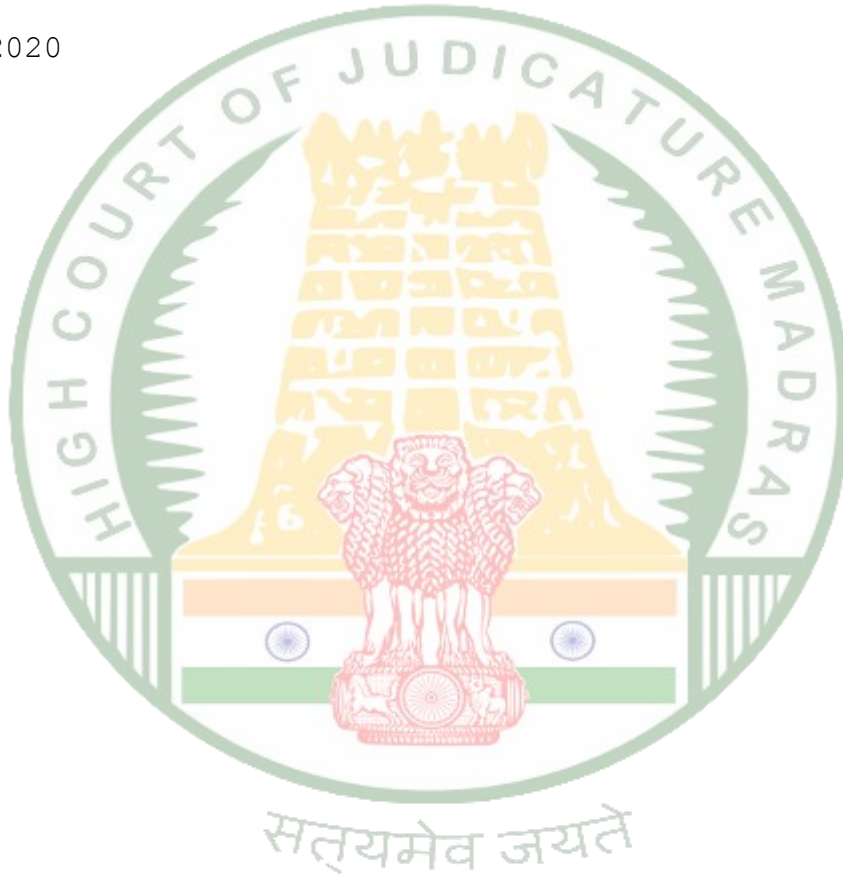
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2. The Chief Metropolitan Magistrate,
Egmore,
Chennai - 600 008.

+1cc to Mr.S.Makesh, Advocate sr.4243
+1cc to Mr.K.Sakthivel, Advocate sr.4477

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