

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2020

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.11323 of 2019

and

W.M.P.Nos.11653, 11654 & 11656 of 2019

R.Selvarasu

... Petitioner

Vs.

1. The Commissioner,  
Khadi Village Industries Commission KVIC,  
No.126, Avai Shanmugam Salai,  
Gopalapuram,  
Chennai - 600086.

2. The Thirupathur Sarvodaya Sangam,  
No.87, Gandhi Road,  
Thirupathur,  
Vellore District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records of the Impugned Resolution Thi.Cha.Cha.Ka.No.186/1/18-19 dated 18.02.2019 passed by the second respondent and quash the same and consequently direct the respondents to re-conduct the election in a proper and fair manner to the second respondent Sangam.

For Petitioner : Mr.P.Wesley Isaac

For Respondents: Mr.M.Palanimuthu [R1]  
Mr.I.Abrar Md Abdullah [R2]

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ORDER

The petitioner had filed the present writ petition in the nature of Certiorarified Mandamus, calling for the records of the Impugned Resolution Thi.Cha.Cha.Ka.No.186/1/18-19 dated 18.02.2019 passed by the second respondent and quash the same and consequently direct the respondents to re-conduct the election for the second respondent Sangam.

2. The second respondent is the Thirupathur Sarvodaya Sangam situated at Thirupathur, Vellore District. The petitioner claims to be a member of the General Body of the

siad Sangam. It is stated that the General Body Meeting of the second respondent was convened on 18.02.2019 to elect the new Administrative Members for the period from 2019-2022. In the affidavit filed in support of the writ petition, it is stated that there was no quorum particularly because one of the member viz., Sampooranam was out station due to a condolence. Consequently, she did not attend the meeting and there was no quorum to conduct the meeting but the resolution was passed and it is for that purpose that the writ petition has been filed to call for the records and quash the resolution.

3. A counter affidavit has been filed by the second respondent. Along with the counter, copies of the impugned resolution has also been produced.

4. Perusal of the records reveals that the said Sampooranam had actually attended the meeting on 18.02.2019 and has also signed in the Register for attending the meeting. The learned counsel appearing for the petitioner however states that he has an affidavit in his possession stating that she did not attended the meeting.

5. This is a question of fact which cannot be decided by this Court. It is an issue to be agitated before the proper authority who has to determine the said fact. In this connection on 28.02.2019, the writ petitioner R.Selvarasu had also given an appeal before the Inspector General of Registration at Chennai and according to him, he has raised the very same issue stating that the resolution dated 18.02.2019 passed by the second respondent Sangam has to be interfered with. It would be highly inappropriate to examine the same issue, when the matter is also pending before the Inspector General of Registration before whom, an appeal has been filed. If this Court were to examine the very same issue, this would clearly amount to re-agitation of the same fact. That cannot be permitted by this Court.

6. This practice of re-agitation and re-litigating the same issue before two different forums has been very strongly commented by the Honourable Supreme Court reported in 1998-3-SCC-573, K.K.Modi Vs. K.N.Modi. The Honourable Supreme Court had stated as follows:-

" 44. One of the examples cited as an abuse of the process of the court is re litigation. It is an abuse of the process of the court and contrary to justice and public policy for a party to re litigate the same issue which has already been tried and decided earlier against him. The re agitation may or may not be barred as res judicata. But if the same issue is sought to be re-agitated, it also amounts to an

abuse of the process of the court. A proceeding being filed for a collateral purpose, or a spurious claim being made in litigation may also in a given set of facts amount to an abuse of the process of the court. Frivolous or vexatious proceedings may also amount to an abuse of the process of the court especially where the proceedings are absolutely groundless. The court then has the power to stop such proceedings summarily and prevent the time of the public and the court from being wasted. Undoubtedly, it is a matter of the court's discretion whether such proceedings should be stopped or not; and this discretion has to be exercised with circumspection. It is a jurisdiction which should be sparingly exercised, and exercised only in special cases. The court should also be satisfied that there is no chance of the suit succeeding."

7. Therefore, it would only be in the interest of the petitioner that the said appeal petition pending before the Inspector General of Registration is taken to its logical contention and finality has reached there. The said official may dispose of the appeal after giving an opportunity to the petitioner and to every other interested party on or before 30.04.2020.

8. Accordingly, the writ petition is disposed of, not only on the ground that it is re-litigation of the same issue but also on the ground that a direction is given to the competent authority to examine the issue of the disputed fact. No costs. Connected miscellaneous petitions are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar

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To

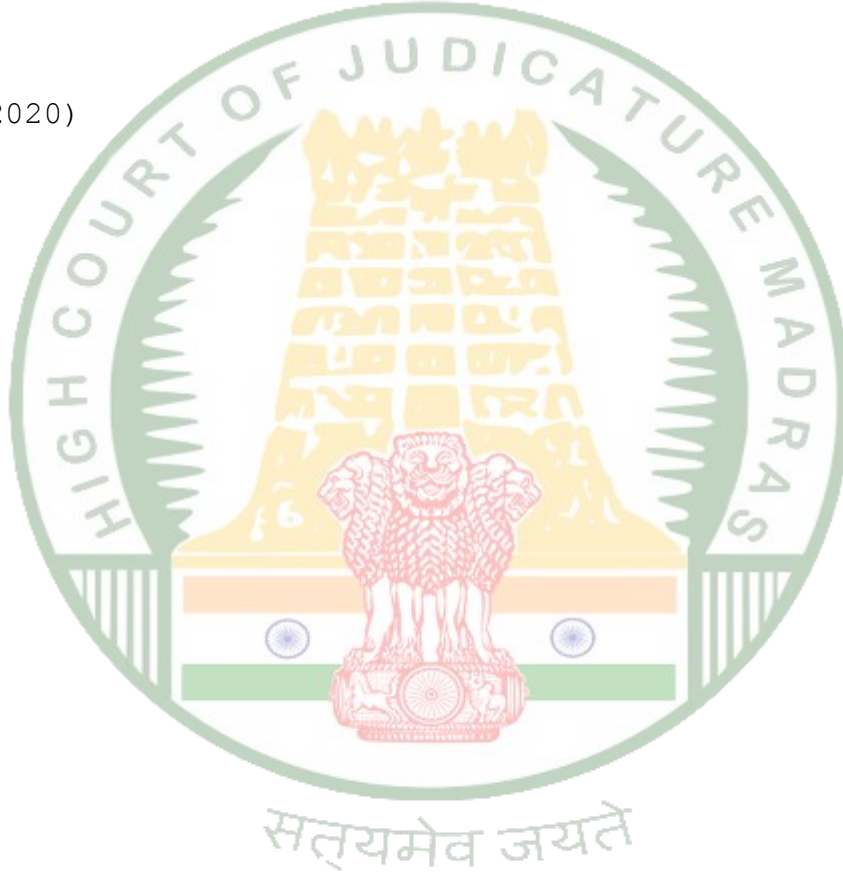
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+1cc to Mr.P.Wesley Isaac, Advocate, S.R.No. 1705  
+1cc to Mr.M.Palanimuthu, Advocate, S.R.No. 1688

W.P.No.11323 of 2019

SSI (CO)  
GN(14/02/2020)



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