

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N.ANAND VENKATESH

W.P.No.13814 of 2020  
and  
W.M.P.No.17175 of 2020

Dr.J.Britto Perianayagam

... Petitioner

Vs.

1.The Inspector General of Registration  
Chennai - 28.

2.The District Registrar (Administration)  
Vellore, Vellore District.

3.The District Sub-Registrar-I,  
Vellore, Vellore District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the entire records in respect of the order passed by the 2<sup>nd</sup> respondent dated 27.07.2018 in No.8466/A1/2017 which was constrained by the 1<sup>st</sup> respondent dated 29.08.2019 in No.41625/u1/2018 and quash the same consequently direct the 2<sup>nd</sup> respondent to cancel the registration of the supplementary deed dated 22.9.2017 registered before the Joint Sub-Registrar-I, Vellore.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.T.M.Pappiah  
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order passed by the second respondent dated 27.07.2018 and which was subsequently confirmed by the first respondent through proceedings dated 29.08.2019

2.The case of the petitioner is that M/s.Annai Educational Trust, Vellore is a registered Trust. It was registered in the year 2008 before the third respondent. Subsequently, a supplementary deed came to be executed in the year 2012. The

further case of the petitioner is that one Dr.Amalarani, became the Chairman of the Trust and she started delegating all the power to her husband, who is the petitioner in this writ petition and according to the petitioner, he is carrying on with the duties and functions of the Trust.

3.The grievance of the petitioner is that the Board members convened a meeting without the knowledge of the Chairman of the Trust and carried out amendments in the Trust Deed and the amendment that was carried out resulted in a supplementary deed came to be executed. The petitioner came to know of the same and gave a representation before the second respondent.

4.The second respondent, by an order dated 27.07.2018, rejected the claim made by the petitioner on the ground that the scope of enquiry is confined only to Section 83 of the Registration Act and this case does not fall within that scope. The petitioner filed an appeal before the first respondent and the first respondent also confirmed the order passed by the second respondent and dismissed the appeal by an order dated 29.08.2019. Aggrieved by the same, the present writ petition has been filed before this Court.

5.The learned counsel for the petitioner submitted that the first and second respondents failed to consider the fact that the Board members have committed a fraud and have concocted documents and presented a supplementary deed for registration. The learned counsel submitted that this action on the part of Board members clearly falls within the scope of Section 68(2) read with Section 83 of the Registration Act. The learned counsel therefore submitted that the order passed by the second respondent and as confirmed by the first respondent requires interference.

6.Per contra, Mr.T.M.Pappiah, learned Special Government Pleader appearing on behalf of the respondents submitted that the nature of dispute involved in the present case is between the Board members on the one hand and the Chairman of the Trust on the other and it is purely a personal dispute into which the respondents cannot interfere. The learned counsel further submitted that the respondents will have to act within the powers conferred under the Registration Act and they cannot enquire into personal disputes and the petitioner has to necessarily approach the Civil Court and seek for an appropriate remedy. The learned counsel therefore submitted that there is absolutely no ground to interfere with the orders passed by the first and second respondents.

7.This Court has carefully considered the submissions made on either side and the materials available on record.

8.The respondents are exercising their powers conferred on them under the Registration Act 1908. Section 83 of the Act deals with the 'Power of the Registering authority to commence prosecutions'. The said section provides for one type of remedy, in cases in which the commission of an offence under the Act comes to the knowledge of the Registering Officer in his official capacity. The language of the section is a permissive one and not a mandatory one and useful reference can be made to the Judgment of the Hon'ble Supreme Court in Dharamdeo Rai V. Ramnagina Rai reported in AIR 1972 Supreme Court 928.

9.A careful perusal of the orders passed by the respondents shows that they have taken into consideration the nature of dispute between the parties and found that it is a dispute purely between the Chairman and the Board of Directors and it deals with the powers of the Board of Directors to pass such a resolution. This dispute cannot be resolved by the first and second respondents. The appropriate remedy for the petitioner would be to approach the competent Civil Court and question the action of the Board members.

10.In the considered view of this Court, this Court does not find any illegality in the orders passed by the first and second respondents and it does not require any interference. It is left open to the petitioner to claim for the relief before the competent Civil Court.

11.In the result, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

Sgl  
To

1.The Inspector General of Registration  
Chennai - 28.

2.The District Registrar (Administration)  
Vellore, Vellore District.

3.The District Sub-Registrar-I,  
Vellore, Vellore District.

+1 CC to The Govt. Pleader sr 33299.

W.P.No.13814 of 2020

BR(CO)  
SP(06/11/2020)



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