



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 2ND DAY OF JANUARY 2020

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

**A.No.9013 of 2019
and
O.A.No.1044 of 2019
in
C.S. No.666 of 2019**

Mrs.Kunjunamma George,
W/o.late P.V.George,
No.25, Pycrofts Garden Road,
Chennai-600 031.

..Applicant/Plaintiff
(in both applications)

-Versus-

1.The Madras Medical Mission,
Represented by its Hon. Secretary (Interim),
No.4-A, Dr.J.Jayalalitha Nagar,
Mogappair, Chennai-600 037.

2.Mrs.Elizabeth George,
D/o.P.C.Varghese (late),
G1, Corner Stone,
7/2, Rajendran Colony, Arunachalam Road,
Saligramam, Chennai-600 093.

3.Mrs.Shoba Verghese,
D/o.Dr.Mary John (late),
Soukya, Soukya Road,
Samethanahalli, Whitefield,
Bengaluru-560 067.

4.Mrs.Sandya Mary Cherian
W/o.Sheby Joy (late),
No.61, Taylors Road,
Kilpauk, Chennai-600 010.

..Respondents/Defendants
(in both applications)

O.A.No.1044 of 2019:

Original Application praying that this Hon'ble Court

<https://hcservices.ecourts.gov.in/hcservices/>

be pleased to grant interim injunction restraining the 2nd,
3rd and 4th Respondents/Defendants from attending any of the



General Body meetings of the 1st Respondent/Defendant Society or voting in the elections of the office bearers of the 1st Respondent/Defendant Society pending disposal of the suit.

A.No.9013 of 2019:

Application praying that this Hon'ble Court be pleased to grant an order of interim direction directing the 1st Respondent/Defendant Society to release the results of the election conducted on 03.11.2019 without counting the votes of the 2nd, 3rd and 4th Defendants pending disposal of the Civil Suit.

These Applications coming on this day before this Court for hearing, the Court made the following order:

O.A. No. 1044 of 2019 is filed to restrain the second, third and fourth respondents/defendants from attending any of the General Body Meetings of the 1st respondent-Society or voting in the elections of the office bearers of the 1st respondent-Society pending disposal of the suit and A.No. 9013 of 2019 is filed to release the results of the election conducted on 03.11.2019 without counting the votes of the second, third and fourth respondents/defendants pending disposal of the Civil Suit.

2. I heard the learned counsel for the applicant, the learned counsel for the first respondent-Society and the learned counsel for the second, third and fourth respondents/defendants.

3. The learned counsel for the applicant submitted that



4. His second submission is that the second, third and fourth respondents were admitted to membership only on 05.09.2019. In a similar situation, by an earlier interim order in O.A. No. 854 of 2017 in C.S. No. 685 of 2017, this Court held that the society should take a consistent stand and that persons who paid the subscription only in July 2017 should not have been declared as eligible voters in the elections, which were announced for August 2017. By relying on the said interim order, the learned counsel contended that the second, third and fourth respondents are also in the same situation inasmuch as they were inducted



as members only on 05.09.2019.

WEB COPY

5. His third contention is that, at the meeting of the Governing Board on 24.08.2018, it was decided that children of members can be admitted only after a suitable amendment to the bye-laws at the General Body Meeting.

6. In view of the fact that such amendment has not been effected till date, he submitted that the respondents herein, including the third respondent who is the daughter of the deceased member, should not be permitted to participate at the General Body Meetings or vote in such meetings. In response to a question as to whether bye-laws of the society stipulate that only the General Body should admit persons to membership, he relied upon bye-law Nos.26 and 28 of the bye-laws of the society. He also relied upon paragraph 27 of the plaint so as to contend that the fourth respondent, who was a sustaining member, is not permitted to become a life member as per bye-law No.29.

7. In response, the learned counsel for the first respondent-Society submitted that the Governing Board of the Society admit persons to membership and not the General Body. After making that submission, the learned counsel submitted that the Society does not want to enter into the dispute between different factions and would abide by the decision of this Court in this regard.



WEB COPY

8. The learned counsel for the second, third and fourth respondents made submissions in response and to the contrary. With regard to the contention that only the General Body can admit members to the Society, the learned counsel pointed out that as per bye-law No.31, the Governing Board is empowered to refuse membership or refuse renewal of membership of any one without assigning any reason. On that basis, he pointed out it is clear that the power to admit a person to membership or to refuse such membership vests in the Governing Board and not the General Body.

9. With reference to the contention that unless the proposed amendment is brought into force, the Governing Board cannot admit members, he pointed out that the proposed amendment itself makes it clear that it is for the purpose of ensuring that there is no ambiguity. In other words, it is the contention that the Governing Board already has the power and that the proposed amendment is only for the purpose of putting the matter beyond all doubt.

10. As regards the earlier order of this Court, the learned counsel for the second, third and fourth respondents pointed out that the said order was passed in the factual context that the persons concerned paid the



applicant has made out a prima-facie case to restrain the second, third and fourth respondents from participating in the General Body Meetings or to vote at such meetings.

14. On a perusal of the bye-laws of the society, I find that bye-law No.26 specifies that membership is open to any one who pays the admission fee and subscription as decided by the General Body from time to time and who believes in the aims and objectives of the Society and agrees to abide by the rules and regulations of the Society. Bye-law No.28 states that any member of the Church, who is admitted to the membership of the Society, pays the life membership fee of Rs.5,000/- or as decided from time to time, shall be a life member of the Society. Neither of these bye-laws stipulate that persons are admitted to membership by the General Body. In specific, these bye-laws specify the admission and subscription fee requirement and the qualification requirement, namely membership of the Church. However, these bye-laws do not say that the General Body should admit a person to membership. In addition, as correctly contended by the learned counsel for the second, third and fourth respondents, bye-law No.31 indicates prima-facie that the Governing Board has the power to refuse membership thereby implying that the Governing Board has the power to grant membership.

15. As regards the contention based on the proposed



amendment, once again, on perusal of the proposed amendment, I find that it is intended prima-facie to make the position abundantly clear that the Governing Board has the power to admit or refuse to admit a person to membership. Therefore, it appears prima-facie that the power is not vested in the General Body.

16. I am not inclined to accept the contention based on the order in O.A. No. 854 of 2017 in C.S. No. 685 of 2017 both because the said order was issued in a different factual context and because it is an interim order, which does not decide issues conclusively.

17. The other contention of the learned counsel for the applicant which merits close consideration is based on the decision of the Governing Board at the meeting held on 24.08.2018. On examining the said proceedings, it appears that the Society decided not to admit children of members until a suitable amendment is made to the bye-laws of the General Body Meeting. In view of the fact that this decision pertains to children of members, it would be relevant in the context of the third respondent, but not in the context of the second or fourth respondents.

18. On perusal of the Minutes of the meeting of the Governing Board on 05.09.2019, I find that the Governing Board took note of the earlier decision, as would be



19. For the reasons set out above and on the basis of the foregoing analysis, I am of the view that the applicant has failed to make out a prima-facie case for the grant of an interim injunction as requested. In this regard, it is also pertinent to point out that the suit is for a declaration that the inclusion of the second, third and fourth respondents as members of the General Body is illegal, null and void and contrary to the bye-laws. The said second, third and fourth respondents/defendants have admittedly become members based on their applications with effect from 05.09.2019. Therefore, the balance of convenience is also not in favour of preventing them from participating at the General Body Meetings or to exercise the rights in such Board meetings. I am also not convinced that irreparable loss will be caused to the applicant if the interim order is not granted. Therefore, the interim



application is hereby dismissed.

WEB COPY

20. As regards the other application, the submission of the learned counsel for the applicant is that the results of the election held on 03.11.2019 should be released, but the votes of the second, third and fourth respondents should not be counted. In view of the conclusions arrived at in O.A.No.1044/2019, I am of the view that the applicant is not entitled to restrain the counting of the votes of the second, third and fourth respondents. Therefore, this application also stands dismissed.

Sd./-S.K.R.J
02/01/2020

//Certified to be true copy//
Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

jj 08/01/2020

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.