



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2020

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THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P. (MD) No.8259 of 2020

and

W.M.P. (MD) Nos.7656 & 7658 of 2020

V.S.Navamani

... Petitioner

Vs.

1.The District Collector,
Madurai, Madurai District.

2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028.

3.The District Registrar (Administration),
Madurai South, Palace Road, Madurai.

4.The Secretary,
Victoria Edward Hall,
Door No.32-A and 32-B,
West Veli Street, Madurai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the third respondent to contemplate an enquiry and to initiate legal action based on the representation of the petitioner dated 07.06.2020 under Section 36 of the Tamil Nadu Societies Registration Act, 1975 in the financial affairs of Victoria Edward Hall, Registration No.16/1907 Madurai.

For Petitioner : Mr.C.M.Arumugam

For R1 to R3 : Mr.K.Sathiya Singh,
Additional Government Pleader.

For R4 : Mr.V.Meenakshi Sundaram

ORDER

(This Petition was heard through video conferencing)

This writ petition has been filed for a Mandamus to direct the third respondent to contemplate an enquiry and initiate legal action
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based on the petitioner's representation dated 07.06.2020 under Section 36 of the Tamil Nadu Societies Registration Act, 1975 with regard to the financial affairs of Victoria Edward Hall, which is registered under the provisions of Societies Registration Act bearing Registration No.16/1907, Madurai.

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2.It is the case of the petitioner that there are several irregularities committed by Victoria Edward Hall, a Registered Society under provisions of Tamil Nadu Societies Registration Act, 1975 bearing Registration No.16/1907, Madurai. It is his case that the present Secretary, namely, the fourth respondent is involved in several criminal and civil cases and he is acting against the welfare of the Society. According to him, the present Secretary has committed more than one offence including falsification of records, creation of bogus documents and also misappropriation of the funds of the Society to the tune of more than a Crore.

3.It is also his case that the present Secretary included number of bogus persons as members of the Society. Since several irregularities have been committed by the Society, the petitioner gave a representation on 07.06.2020 to the third respondent calling upon him to take action as contemplated under Section 36 of the Tamil Nadu Societies Registration Act, 1975. According to the petitioner, he has also submitted supporting documents with regard to his complaint along with the representation, dated 07.06.2020.

4.It is the case of the petitioner that despite the said representation, till date the third respondent has not initiated action as contemplated under Section 36 (1) of the Tamil Nadu Societies Registration Act, 1975 against the Secretary. In such circumstances, this writ petition has been filed.

5.Heard Mr.C.M.Arumugam, learned counsel appearing for the petitioner, Mr.K.Sathiya Singh, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.V.Meenakshi Sundaram, learned counsel appearing for the fourth respondent.

6.The learned counsel appearing for the petitioner drew the attention of this Court to Section 36 of the Tamil Nadu Societies Registration Act, 1975 and submitted that there are four contingencies mentioned in Section 36(i) of the Act with regard to the initiation of the legal action for the irregularities committed by the Registered Society. According to him, the Registrar will have to necessarily take action, once a representation has been given by a person with supporting documents with regard to the alleged irregularities committed by the Society. According to him, since the petitioner, in his representation, dated 07.06.2020 has placed all relevant records and documents with regard to the irregularities committed by the Society, the Registrar ought to have taken *suo motu* action as contemplated under Section 36(i) of the Societies Registration Act, 1975. The learned counsel



appearing for the petitioner also drew the attention of this Court to the following authorities:

(i) Decision of learned Single Judge of this Court in a case of **M/S. Karandhai Tamil Sangam, Rep. by its Secretary Vs. The Inspector General of Registration and another** reported in **2015(1) TLNJ 107 (Civil)**.

(ii) Decision of learned Single Judge of this Court dated 05.03.2013 in W.P.(MD) Nos.13579 of 2011 and etc., batch in a case of **Yadhavar Kalvi Nithi Registered Society Vs. State of Tamil Nadu and others**.

(iii) Division Bench judgment of this Court dated 01.08.2016 passed in W.A.(MD) No.1130 and 1428 of 2014 and W.P.(MD) Nos.19846 of 2014 and 2717 of 2016.

Relying upon the aforesaid decisions, the learned counsel appearing for the petitioner would submit that a duty is cast upon the Registrar to take *suo motu* action under Section 36(i) of the Tamil Nadu Societies Registration Act, 1975, based on the representation, dated 07.06.2020.

7. Per contra, the learned counsel appearing for the fourth respondent would submit that there is no legal right vested with the petitioner and he does not have any *locus-standi* and therefore, this writ petition seeking for a Mandamus to the respondents 1 to 3 to initiate action under Section 36(1) of the Act by the Registrar *suo motu* is not maintainable. The learned counsel also relied upon Section 36(1) of the said Act and would submit that there is no legal right vested with the petitioner to call upon the Registrar to take *suo motu* action in respect of the alleged irregularities committed by the Society. He would also submit that there are more than 1000 members in the fourth respondent Society and none of the members has lodged any complaint with regard to the alleged irregularities. He would further submit that the petitioner was earlier removed from the said Society. Therefore, according to him, the instant writ petition is not maintainable as no legal right is vested with the petitioner as he does not have any *locus-standi*.

8. Mr. K. Sathiya Singh, learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that till date, no action has been taken by the Registrar against the fourth respondent Society.

9. Section 36 of the Tamil Nadu Societies Registration Act, 1975 reads as follows:

36. Power of Registrar to inquire into the affairs of registered Society:- (1) The Registrar may, of his own motion or on the application of a majority of the members of the committee of a registered society or on the application of not less than one-third of the members of



that registered society, or if so moved by the District Collector hold or direct some person authorised by the Registrar by order in writing in this behalf to hold, an inquiry, into the constitution, working and financial condition of that registered society.

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(2) An application to the Registrar under sub-section (2) shall be supported by such evidence as the Registrar may require for the purpose of showing that the application have good reason for applying for an inquiry.

(3) The Registrar may require the applicants under sub-section (1) to furnish such security as he thinks fit for the costs of the proposed inquiry, before the inquiry is held.

(4) All expenses of and incidental or preliminary to the inquiry shall, where such inquiry is held-

(a) on application, be defrayed by the applicants therefor or out of the assets of the registered society or by the members or officers of the registered society, in such proportions as the Registrar may, by order in writing, direct; and

(b) on the District Collector's or Registrar's motion, be defrayed out of the assets of the registered society, and shall be recoverable as an arrear of land revenue.

(5) An order made under sub-section (4) shall, on application, be enforced by any Civil Court having local jurisdiction in the same manner as a decree of such Court.

(6) A person holding an inquiry under this section shall at all reasonable times have free access to all the books, accounts and documents of the registered society, and shall have power to call upon, the registered society and the officers of society to produce such books, accounts and documents and furnish such statements and other information in relation to its business as he may direct.

(7) It shall be the duty of all persons who are or have been officers of the registered society to furnish the inquiring officer with all the books, accounts and documents in their custody or power relating to the registered society.

(8) A person holding an inquiry under this section may summon any person who, he has reason to believe, has knowledge of any of the affairs of the registered society and may examine such person on oath and may summon any person to produce any books, accounts or documents



belonging to him or in his custody if the person holding the inquiry has reason to believe that such books, accounts or documents contain any entries relating to transactions of the registered society.

(9) The result of the inquiry shall be communicated to the registered society and to the applicants, if any, and if the Registrar is satisfied that the result of the inquiry does not warrant action under Section 37, he may issue such direction to the registered society, or any member of the registered society, as the Registrar may deem fit.

10. As seen from the Section 36(1) of the Act, there are four contingencies for initiation of action under Section 36 of the Act with regard to initiating enquiry into the affairs of the registered Society. Insofar as the present writ petition is concerned, this Court is concerned with the first contingency, namely, Registrar's *suo motu* action.

11. As seen from the aforesaid Section, discretion to exercise *suo motu* action is vested solely with the Registrar. Just because, a representation has been given to the Registrar, he need not take action with regard to the affairs of the Registered Society. As rightly contended by the learned counsel appearing for the fourth respondent, the Registrar receives complaints with regard to the affairs of the Society from various sources. Based on the complaints received by him, the Registrar can exercise his discretion to exercise *suo motu* action against the Society, which has committed irregularities in its functioning.

12. In the case on hand, the petitioner has given a representation. It is not in dispute that the Registrar received the same. As seen from Section 36(1) of the said Act, it is not mandatory for the Registrar to take *suo motu* action as and when he receives any representation from any person with regard to the alleged irregularities committed by any Society.

13. The decisions relied upon by the learned counsel for the petitioner (cited supra) are all decisions where the Registrar has exercised his *suo motu* power under Section 36(1) of the Tamil Nadu Societies Registration Act, 1975, which was put to challenge in those writ petitions. In those cases, the Registrar had exercised his discretion by exercising *suo motu* power under Section 36(1) of the said Act.

14. In the case on hand, till date, the Registrar has not exercised his discretion vested with him under Section 36(1) of the said Act. Therefore, the decisions relied upon by the learned counsel for the petitioner are of no value to the case on hand.



Further, in the case on hand, admittedly, except petitioner, none of the present members of the Society have lodged any complaint before the Registrar to initiate action against the Society under Section 36 of the Tamil Nadu Societies Registration Act, 1975.

15. The learned counsel appearing for the fourth respondent has also relied upon the judgment of the learned Single Judge of this Court in a case of **A.Samiappan Vs. The District Registrar and others** reported in **2007 Wrti L.R. 1031** wherein, the learned Single Judge held that when one person alone gave a representation to the Registrar and majority of the members of the Society had not lodged any complaint before the Registrar, it is not mandatory for the Registrar to take *suo motu* action as contemplated under Section 36 (1) of the Tamil Nadu Societies Registration Act, 1975. The said decision has also been followed in various other decisions, which have been relied upon by the learned counsel for the fourth respondent.

16. For the foregoing reasons, since the petitioner has no legal right and has no *locus-standi* under Section 36(1) of the Act, there is no merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (crl side)

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Sub Assistant Registrar(CS)

Gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Madurai, Madurai District.

2. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028.

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3.The District Registrar (Administration),
Madurai South, Palace Road,
Madurai.

+1 CC to SPL GP (SR-21100[F] dated 04/11/2020)

+1 CC to Mr.V. MEENAKSHISUNDARAM, Advocate (SR-21197[F] dated
04/11/2020)

W.P.(MD)No.8259 of 2020
03.11.2020

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