

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

O.S.A.NOS.295 TO 298 OF 2018
AND
C.M.P.NOS.14080 TO 14084 OF 2018
AND
8710 OF 2019

A.M.Vikrama Raja Appellant in all Appeals

Vs

1. Nellai Thoothukudi Nadar
Mahamai Paripalana Sangam,
Rep. by its Secretary,
No.22 (Old No.488), Pantheon Road,
Egmore, Chennai - 600 008.

2. V.T.Pathmananban Nadar
3. R.Chandran Jayapal Nadar
4. M.Marithangam Nadar

... Respondents in all Appeals

Common Prayer :-

Original Side Appeals filed under Order XXXVI Rule 1 of the Original Side Rules read with Clause 15 of the Letters Patent, praying to set aside the common fair and decreetal order dated 28.06.2018 made in O.A Nos.1030, 1031, 1032 and 1035 of 2017 in C.S.No.793 of 2017 on the file of the Original Side, High Court, thereby allow the Original Side Appeal with costs.

O.A.No.1030 of 2017:

Original Application praying that this Hon'ble Court be pleased to pass an order of interim injunction restraining the 1st respondent from enforcing the interim suspension of the Applicant/Plaintiff from the basis member of the 1st defendant Sangam as communicated by the 1st defendant in its letter dated 02.10.2017, pending disposal of the above suit.

O.A.No.1031 of 2017:

Original Application praying that this Hon'ble Court be pleased to pass an order of interim injunction restraining the defendants, their agents, servants, men, or anyone claiming under or through them from terminating the membership of the plaintiff in the 1st defendant Sangam and/or interfering with the Applicant/Plaintiff's functioning as Member of the 1st Respondent/1st Defendant Sangam, pending disposal of the above suit.

O.A.No.1032 of 2017:

Original Application praying that this Hon'ble Court be pleased to pass an order of interim injunction restraining the respondents 1-4/Defendants 2-4, from functioning as Secretary, President and Treasurer respectively of the 1st Defendant Sangam as well as Office bearers of Nellai Nadar Matriculation Higher Secondary School and Ramachandrapuram Public School (CBSE), pending disposal of the above suit.

O.A.No.1035 of 2017:

Original Application praying that this Hon'ble Court be pleased to appoint a Chartered Account firm to look into the accounts of the 1st defendant Sangam including Nellai Nadar Matriculation Higher Secondary School and Ramachandrapuram Public School (CBSE), Kottivakkam, Chennai, pending disposal of the above suit.

For Appellant
in all Appeals : Mr.R.Thiagarajan.

For Respondents
in all Appeals : Mr.T.V.Ramanujam, Senior Counsel
for Mr.T.Sundar Rajan for R1 & R3.
Mr.Richardson Wilson for
M/s.P.Wilson Associates for R2.
Mr.P.Premkumar for R4.

COMMON JUDGMENT

(Judgment of the court was made by N.KIRUBAKARAN.J.,)
The matter was heard through "Video Conference".

2.These appeals have been filed against the dismissal of four Original Applications filed by the Appellant seeking various reliefs.

3. According to the Appellant, he is a member of the First Respondent/Sangam and he was an Office Bearer for sometime. Alleging some misappropriation at the time of holding office, the Appellant was suspended from the partnership of the Sangam by virtue of resolution dated 25.09.2017. Therefore, the Appellant filed a suit in C.S.No.793 of 2017 with the following prayer which is usefully extracted:-

"36. The Plaintiff, therefore, prays for a judgment and decree as against the defendants:-

(a) For a Declaration that the purported Resolution dated 25-09-2017 which culminated in the suspension of the Plaintiff on 25-09-2017 from the basic member of the 1st Defendant as illegal, invalid and non-est in the eyes of law and the same as illegal,

(b) For a Permanent Injunction restraining the Defendants, their agents, servants, men or anyone claiming under or through them from terminating the membership of the Plaintiff in the 1st Defendant Sangam,

(c) For a Permanent Injunction restraining the Defendants, their agents, servants, men or anyone claiming under or through them from indulging in malicious propaganda as against the Plaintiff or the persons connected with him through medias, such as Television, Whatsup, Face Book or by pasting posters etc.

(d) For a mandatory Injunction directing the 1st Defendant to conduct the election of the 1st Defendant Sangam after finalising the Voters' List in accordance with the bye-laws and constitution of the 1st Defendant Sangam by appointment of a Retired High Court Judge as Administrator and to function as the administrator of the 1st Defendant and Nellai Nadar Matriculation Higher Secondary School as well as Ramachandrar Public School (CBSE), Kottivakkam, Chennai 600 041;

(e) For a Mandatory Injunction directing appointment of a Chartered Accountant firm to look into the accounts of the 1st Defendant Sangam including Nellai Nadar Matriculation Higher Secondary School and Ramachandrar

Public School (CBSE), Kottivakkam, Chennai
600 041;

(f) For a Permanent Injunction restraining the existing Office Bearers of the 1st Defendant Sangam viz. Defendants 2 to 4 from functioning as Secretary, President and Treasurer respectively of the 1st Defendant Sangam;"

4. In the said suit, four Applications have been filed by the Appellant, viz., O.A.Nos.1030 to 1032 and 1035 of 2017. Originally, interim order has been granted in favour of the Appellant and the same has been vacated at the instance of the Respondents. However, the Application filed for rejection of plaint has been dismissed.

5. Heard Mr.R.Thiagarajan, Learned Counsel for the Appellant and Mr.Richardshon Wilson, Learned Counsel for the Second Respondent and Mr.T.Sundarrajan, Learned Counsel for First and Third Respondents and Mr.P.Premkumar, Learned Counsel for the Fourth Respondent.

6. The only grievance of the Appellant, at present, is with regard to the disposal of O.A. No. 1035 of 2017 which has been filed to appoint a Chartered Accountant Firm to look into the accounts of the First Defendant/First Respondent/Sangam including Nellai Nadar Matriculation Higher Secondary School and Ramachandra Public School (CBSE), Kottivakkam, Chennai. According to the Learned Counsel for the Appellant, there is no reasoning given by the Learned Single Judge for dismissing the said application.

7. After hearing the parties, this Court is of the view that the dismissal of all the applications except O.A. No. 1035 of 2017 is valid and the same are confirmed for the reasons stated therein. In O.A.No.1035 of 2017, no reason has been given by the Learned Singly Judge as to why the said application has been dismissed.

8. In view of the above, the order passed in O.A. No. 1035 of 2017 is set aside and the same is restored to file. Accordingly, the Original Side Appeal in O.S.A. No. 298 of 2018 alone is allowed and the other Original Side Appeals are dismissed. No costs. Consequently, all the connected Miscellaneous Petitions are closed. However, it is made clear that the finding given by this Court is with regard to the disposal of the Appeals for the disposal of the suit and the decision taken by this Court will not have any bearing on the Suit.

9.It is reported that the First Defendant had already filed Written Statement and Counter Claim. Therefore, rest of the Defendants are directed to file Written Statement on or before 31.03.2021 along with condone delay application, if necessary, at the earliest, so that the suit would be ready for trial.

10.It is seen that the valuation of both the Suits in C.S.Nos.641 of 2016 and 793 of 2017 are within Rs.1,00,00,000/- (Rupees One Crore only). Hence, due to increase in pecuniary limits of jurisdiction, Registry is directed to transfer both the suits in C.S.Nos.641 of 2016 and 793 of 2017 to the City Civil Court, Chennai and post before same Court together for joint trial as the parties are one and the same.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ay/Maya

To

1. The Sub Assistant Registrar,
Original Side Section,
High Court of Madras,
Chennai.
2. The Registrar,
City Civil Court, Chennai.

+1cc to Mr.T.Sundar Rajan, Advocate, S.R.No.16621

+1cc to Mr.R.Thiagarajan, Advocate, S.R.No.17235

+2cc to Mr.P.Premkumar, Advocate, S.R.No.17255 & 17256

O.S.A.Nos.295 to 298 of 2018
and C.M.P.Nos.14080 to 14084
of 2018 and 8710 of 2019

AD(CO)
CS/17/04/2021

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