



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A. No. 2321 of 2021 and
C.M.P.No. 3151 & 13018 of 2021

1. S. Parthasarathy,
2. V. Pandi
3. R. Ayyasamy
4. M. Sivakumaran
5. M. Arumugham
6. P. Ramasamy
7. P. Selvaraj
8. R. Nagendran

...Appellants/1,2,4 to 9
Defendants/1,2,4 to 9

Vs

1. The Coimbatore Periyar District,
Dravida Panchalai Thozhilalar
Munnetra Sangam having registered
Office at No.69, Tatabad 3rd Street,
By its General Secretary
S. Duraisamy

2. S. Duraisamy
3. M. Thiyagarajan
4. R. Dharmalingam
5. R. Ramachandran
6. P. Gunasekaran
7. A. Palanisamy
8. P. Govindasamy
9. M. Palanisamy
10. S.S. Kaliappan
11. V. Srinivasan

...Respondents 1 to 11/
Plaintiffs 1 to 7 & 9 to 12
...12th Respondent/
10th Respondent

12. V. Jaishree

Prayer: The Civil Miscellaneous Appeal filed under Order 43 Rule1(s) of Code of Civil Procedure, to set aside the fair and decretal order dated 30.07.2021 made in I.A. No. 586 of 2017 in O.S. No. 228 of 2010 on the file of the Ld. First Additional District Court, Coimbatore.



For Appellants : Mr.N.Manokaran

For Respondents : Mr.N.Sridhar for
Mr.R.Bharathkumar for Caveator

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JUDGMENT

This appeal has been filed challenging the fair and decretal order dated 30.07.2021 made in I.A.No.586 of 2017 in O.S.No.228 of 2010 on the file of I Additional District Court, Coimbatore, wherein, the learned I Additional District Judge, Coimbatore had discharged the Receiver and had directed him to handover the assets and documents belonging to the subject Trade Union to the plaintiffs in O.S.No.228 of 2010.

2. It is an admitted fact that insofar as the election conducted by the appellants/defendants on 24.03.2010 is concerned, there was a dispute which attained finality by virtue of the decision of the Hon'ble Supreme Court in SLP (C)No.4874 of 2018 dated 25.11.2019 by which the disputed election dated 24.03.2010 was declared to be null and void.

3. Both the learned counsels have admitted the aforesaid fact.

4. During the pendency of the earlier round of litigation, a Receiver was appointed to manage the affairs of the Plaintiffs' Trade Union. Since the earlier round of litigation had attained finality, the plaintiffs in O.S.No.228 of 2010 have filed an application in I.A No.586 of 2017, seeking for discharge of the Receiver. Under the impugned order dated 30.07.2021 passed in I.A.No.586 of 2017, the Receiver has been discharged.

5. A Memo has been filed before this Court on 17.08.2021 by the respondents/defendants stating that pursuant to the impugned order dated 30.07.2021, the plaintiffs in O.S.No.228 of 2010 have obtained possession of the immovable properties as well as the assets of the plaintiffs' Trade Union from the Receiver. The said Memo is taken on file and recorded.

6. The Official Receiver, Coimbatore has filed a Report dated 12.08.2021, giving the particulars of the assets of the plaintiffs' Trade Union which were handed over back to the plaintiffs in O.S.No.228 of 2010.

7. However, the learned counsel for the appellants/defendants would submit that the subject appeal, aggrieved by the order dated 30.07.2021, was filed on 10.08.2021, after serving notice to the caveator/respondents. He submits that the Receiver ought not to have handed over the



assets of the Trade Union to the plaintiffs in O.S.No.228 of 2010 without knowing the outcome of the present appeal. He further submits that the plaintiffs in O.S.No.228 of 2010 have not been duly elected as Office Bearers of the Trade Union and they cannot represent the interest of the Trade Union and therefore the handing over the assets by the Receiver is not proper and the same is illegal.

8. Admittedly, there was a dispute with regard to the election conducted by the appellants/defendants on 24.03.2010 for the subject Trade Union. The same was challenged by the respondents/plaintiffs claiming to represent the interest of the Trade Union in O.S.No.228 of 2010. There was also a rival suit filed by the appellants/defendants in O.S.No.615 of 2010, seeking for an injunction restraining the respondents/plaintiffs in O.S.No.228 of 2010 from interfering with the Management of the Trade Union by them.

9. Admittedly, both the suits were pending on the file of I Additional District Court, Coimbatore and joint trial was conducted and thereafter, the rights of the respondents/plaintiffs in O.S.No.228 of 2010 was upheld and the suit filed by the appellants/defendants in O.S.No.615 of 2010 came to be dismissed. Aggrieved by the same, the appellants, who are the plaintiffs in O.S.No.615 of 2010 preferred first appeal before this Court in A.S.Nos.369 and 370 of 2014. This Court, by judgment and decree dated 27.06.2017, confirmed the findings of the trial Court and dismissed the appeal. Aggrieved by the same, the appellants, who are the plaintiffs in O.S.No.615 of 2010 preferred a Special Leave Petition before the Hon'ble Supreme Court in SLP(C)No.4874 of 2018. The Hon'ble Supreme Court by order dated 25.11.2019 dismissed the Special Leave Petition with the following observations:-

" We do not find any ground to interfere in the impugned order. The Special leave petitions fail and are dismissed accordingly.

Mrs.V.Mohana, learned Senior Counsel appearing for the respondents, on instructions, submits that the next elections for the Union are due in the month of December, 2019. We hope and trust that the ensuing elections will be held appropriately and in accordance with the Rules and Regulations. It is open for the Registrar of Trade Unions in the District to appoint appropriate person to oversee the elections."



10. Subsequent to the aforesaid order only, the plaintiffs in O.S.No.228 of 2010 has filed the application in I.A.No.586 of 2017 before the I Additional District Judge, Coimbatore, seeking for discharge of the Receiver. Under the impugned order, after giving due consideration to the fact that the dispute with regard to the earlier election conducted by the appellants which has been declared as null and void has attained finality by virtue of the order dated 25.11.2019 passed by the Hon'ble Supreme Court, the learned I Additional District Judge, Coimbatore has discharged the Receiver and has directed the Receiver to hand over the assets of the Trade Union to the plaintiffs in O.S.No.228 of 2010. This Court does not find any infirmity in the order passed by the learned I Additional District Judge, Coimbatore on 30.07.2021 in I.A.No.586 of 2017, which is the subject matter of this appeal.

11. Learned counsel for the appellants/defendants submits that with regard to the election conducted by the respondents/plaintiffs subsequent to the order of the Hon'ble Supreme Court dated 25.11.2019 in SLP(C)No.4874 of 2018, the appellants/defendants have also filed a suit in O.S.No.1204 of 2020 before the II Additional District Munsif, Coimbatore as against the said election held by the respondents/plaintiffs on 24.12.2019. He would further submit that the Receiver will have to be necessarily appointed as the plaintiffs in O.S.No.228 of 2010 are continuing to commit irregularities in the management of the Trade Union.

12. This Court is of the considered view that the allegations levelled by the appellants/defendants cannot be decided in this litigation as the subject matter of the appeal pertains only to the suits in O.S.Nos.228 and 615 of 2010 which had already attained finality by virtue of the order of the Hon'ble Supreme Court in SLP (C)No.4874 of 2018 dated 25.11.2019.

13. If at all the appellants/defendants are aggrieved by any irregularity committed by the respondents/plaintiffs in O.S.No.228 of 2010, it is for the appellants/defendants to agitate their rights in the suit filed by the plaintiffs in O.S.No.1204 of 2020 on the file of II Additional District Munsif, Coimbatore. It does not prevent the appellants/defendants to file an application for appointment of Receiver in the said suit and it is for the II Additional District Munsif to consider the said application, as and when filed, and pass orders on merits and in accordance with law. It is also open to the respondents/plaintiffs to contest the said application by raising the plea of locus standi for the appellants/defendants to file such an application for Receiver.



14. With the aforesaid observations, the Civil Miscellaneous Appeal is dismissed as the same has now become infructuous in view of the fact that the first respondent Trade Union has already taken possession of its assets from the Receiver pursuant to the directions given under the impugned order and the litigations pertaining to O.S.Nos.228 and 615 of 2010. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sr/rgi

To

1. The I Additional District Judge,
Coimbatore.
2. The II Additional District Munsif,
Coimbatore.

Copy to

The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.44530

C.M.A.No. 2321 of 2021

MG[co]
NSK 27/09/2021