



S.A.Nos.1992 & 1993 of 2003

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

S.A.Nos.1992 & 1993 of 2003

S.A.No.1992 of 2003

- 1.K.Ponnuswamy
- 2.R.Govindaraj
- 3.S.Parthasarathy
- 4.Coimbatore Periar District
Dravida Panchalai Thozhilalar Munnetra Sangam,
By its General Secretary, S.Parthasarathy
- 5.K.Arumugam
- 6.S.M.Arumugam

...Appellants

Vs.

- 1.Coimbatore & Periar District
Dravida Panchalai Thozhilalar Munnetra Sangam,
by its General Secretary
- 2.S.Duraiswamy
- 3.M.Thiagarajan
- 4.P.Govindaswamy
- 5.A.Palaniswamy
- 6.G.Ganapathy
- 7.M.Palaniswamy
- 8.V.Srinivasan
- 9.Palanivel
- 10.Krishnaswamy
- 11.A.Natarajan
- 12.Idigarai Kandaswamy

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- 13.Tiruppur Periaswamy
14.Sivasubramaniam (died)
15.Rangappan
16.R.Subramaniam
17.R.Kumaresan
18.K.S.Krishnan
19.M.Somasundaram
20.Rasukutti (died)

...Respondents

Prayer: Second Appeal filed under Section 100 of C.P.C., against the judgment and decree of the learned I-Additional District Judge cum Chief Judicial Magistrate, Coimbatore dated 28.02.2003 in A.S.No.96 of 2000 confirming the judgment and decree of the III-Additional District Munsif, Coimbatore dated 10.01.2000 passed in O.S.No.59 of 1994.

For Appellants : Mr.T.V.Ramanujan
Senior Counsel for M/s.R.Ramya
For Respondents : Mrs.Chitra Sampath
Senior Counsel for Mr.T.S.Baskaran
for R1 to R5, R7 & R8
R6, R9, R10 to R13, R16 to R19
- No Appearance



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1.Coimbatore Periar District

Dravida Panchalai Thozhilalar Munnetra Sangam
by its General Secretary, S.Parthasarathy

2.S.Parthasarathy

3.N.Arumugam

4.S.M.Arumugam

5.R.Govindaraj

...Appellants

Vs.

1.S.Duraiswamy

2.M.Thiagarajan

3.P.Govindaswamy

4.A.Palaniswamy

5.G.Ganapathy

6.M.Palaniswamy

7.V.Srinivasan

8.P.V.Velusamy

9.Pathirasamy

10.R.K.Kumaresan

11.K.S.Krishnan

12.M.Somasundaram

13.P.Periaswamy

14.Rangappan

15.T.Sivasubramaniam (died)

16.Rasukutti (died)

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For Appellants : Mr.T.V.Ramanujan
Senior Counsel for M/s.R.Ramya
For Respondents : Mrs.Chitra Sampath
Senior Counsel for Mr.T.S.Baskaran
for R1 to R4, R6 & R7
R5, R8 to R14 – No Appearance
15 & 16 – Died

COMMON JUDGMENT

S.A.No.1992 of 2003

1.The 1st, 4th, 12th, 13th, 14th and 17th defendants in O.S.No.59 of 1994 on the file of the III-Additional District Munsif Court at Coimbatore are the appellants herein. They had suffered a decree in the Trial Court and also an adverse judgment in A.S.No.96 of 2001 which came up for consideration before the I-Additional District Judge cum Judicial Magistrate, Coimbatore on 28.02.2003. Questioning the judgments passed by both the Trial Court and by the first Appellate Court, aforementioned defendants have filed the present Second Appeal.



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2.The Second Appeal had been admitted on only one substantial

question of law, which is as follows:-

“When the case of the plaintiffs themselves is that they are entitled to be in Office till 11.05.1994, can a civil Court grant a decree for permanent injunction protecting their alleged Office forever?”

3.The suit in O.S.No.59 of 1994 had been filed by the plaintiffs who are the respondents herein with respect to the appointment as Office Bearers of the 1st plaintiff / Trade Union and questioning the right of the defendants to continue as Office Bearers of the 1st plaintiff / Trade Union and for a consequential injunction restraining the defendants from interfering with the right of the plaintiffs to discharge their duties and functioning as Office Bearers of the 1st plaintiff / Union.

4.On completion of pleadings, the parties were invited to adduce evidence. On analysis of the pleading and the evidence, the suit was decreed. The subsequent First Appeal filed by the appellants herein was dismissed. However, the main grievance as stated in the substantial



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question of law was that while granting relief of injunction, permanent injunction was granted in favour of the respondents herein / plaintiff, and therefore, an apprehension had been raised by the learned Senior Counsel appearing on behalf of the appellants that grant of permanent injunction could be interpreted as giving right in perpetuity to the respondents herein to continue as Office Bearers of the 1st plaintiff / Union and that, even if elections are held subsequently, and the electorate bring into power other candidates as Office Bearers, they could still not interfere with the functioning of the respondents.

5.To that extent, though a substantial question of law has been framed, only a clarification is required with respect to the decree of the Trial Court.

6.The decree of the Trial Court is modified and it is clarified that the injunction granted shall be in force only till the period when the said Office Bearers were in Office, namely 11.05.1994 which was the period for which the elections were held. Subsequent elections would be governed not



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by this particular injunction. The Office Bearers who are elected subsequently would have a right to hold in Office, provided the elections had been conducted in manner known to law.

7. Therefore, the decree in O.S.No.59 of 1994 on the file of the III-Additional District Munsif Court, Coimbatore is modified that injunction is granted till the period for which the elections had been conducted, namely 11.05.1994. It is only appropriate that such injunction is recognized. To that extent, a clarification is issued.

8. The Second Appeal in S.A.No.1992 of 2003 is allowed to that limited extent. No costs. Consequently, connected miscellaneous petitions, if any, are closed.

S.A.No.1993 of 2003

9. The 1st, 2nd, 3rd, 6th and 12th plaintiffs in O.S.No.2024 of 1994 on the file of the III-Additional District Munsif Court, Coimbatore are the appellants herein. They had suffered a decree before the said Court on



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10.01.2000 and their subsequent appeal in A.S.No.97 of 2000 which came up before the I-Additional District Judge cum Chief Judicial Magistrate, Coimbatore also ended against them, by judgment dated 28.02.2003. Aggrieved by the concurrent findings, the said plaintiffs have filed the present Second Appeal.

10.It must be quite fairly stated that to the advantage of this Court both the learned Senior Counsels appearing on behalf of the appellants and on behalf of the contesting respondents have clarity in the fact that no further purpose would be served in pursuing further with the Second Appeal as subsequently, elections have taken place and matters have progressed to the Supreme Court and Office Bearers have also taken charge and have discharged their duties as Office Bearers. In view of that particular fact, the Second Appeal itself has become infructuous, since the relief sought in the plaint as on date has become otiose and incapable of being performed. The Second Appeal in S.A.No.1993 of 2003 is therefore, dismissed as having become infructuous.



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11.In the result,

i) S.A.No.1992 of 2003 is allowed to the limited extent of clarifying that the injunction granted by the Trial Court in O.S.No.59 of 1994 was till 11.05.1994,

ii) S.A.No.1993 of 2003 is dismissed as infructuous.

iii) No costs.

17.06.2022

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Index:Yes/No

Internet:Yes/No

Speaking / Non-speaking order



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C.V.KARTHIKEYAN, J.

KKN

To:-

- 1.The I-Additional District Judge cum Judicial Magistrate,
Coimbatore.
- 2.The III-Additional District Munsif Court,
Coimbatore.

S.A.Nos.1992 & 1993 of 2003

17.06.2022