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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.32448 and 32449 of 2003

V.Suvarnalingam ... Petitioner in W.P.32448/2003

V.Kumarasamy ... Petitioner in W.P.32449/2003

Vs.

1.The District Collector,
Perambalur District,
Tamil Nadu.

...1st Respondent in W.Ps.

2.The Inspector General of Registration,
Rajaji Salai,
Chennai - 1.

3.The Registrar of Assurances,
Ariyalur District.

...2 & 3rd Respondents in both the W.Ps.

4.Kalaiselvi

... 4th Respondent in W.P.32448/2003

4.Gnanam Amulraj

... 4th Respondent in W.P.32449/2003

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the third respondent under proceeding Nos.6327/AA 3/2003 and 5721/AA/3/2003 respectively, dated 28.08.2003 and quash the same as illegal, unlawful and unconstitutional.

For Petitioners : Mr.V.Raghavachari

For Respondents : Mr.M.Murali for R1 to R3
Government Advocate
Mr.V.Illanchezhian for R4



COMMON ORDER

The petitioners have filed these writ petitions seeking issuance of Writ of Certiorari calling for the records of the third respondent under proceeding Nos.6327/AA 3/2003 and 5721/AA/3/2003 respectively, dated 28.08.2003 and to quash the same as illegal, unlawful and unconstitutional.

2.Since the issue involved in these writ petitions are one and the same, they are heard together and disposed of by way of a common order.

3.The petitioner in W.P.No.32448 of 2003 is the President of Periyaa Kurichi Watershed Association and the petitioner in W.P.No.32449 of 2003 is the President of Vanchinapuram Watershed Association. The case of the petitioners is that the respective fourth respondents are the members of the Executive Committee of the respective Watershed Associations and knowing fully well that the respective Watershed Associations are registered Associations, the respective fourth respondents formed new Association with identical names and also registered the same. Hence, the petitioners filed writ petitions in W.P.Nos.18774 and 18143 of 2003 respectively, before this Court seeking direction to the respondents therein to revoke the registration made by the respective fourth respondents and this Court vide orders dated 08.07.2003 and 02.07.2003 respectively, directed the third respondent to conduct enquiry with the petitioners and fourth respondents and to pass appropriate orders. Thereafter, the impugned orders came to be passed. Challenging the same, the petitioners have filed these writ petitions.

4.The learned counsel appearing for the petitioners submitted that the Associations in which the petitioners are Presidents were registered much earlier to the Associations registered by the respective fourth respondents. As per section 9(1)(c) of the Tamil Nadu Societies Registration Act, 1975, no society shall be registered by a name which is identical with the name by which a society is existence has been previously registered. In the present case, the private respondents ought to have changed the names of the Associations formed by them. However, contrary to the Act, they registered their Associations with identical names, which is not sustainable.

5.The learned Government Advocate appearing for the respondents 1 to 3 did not dispute the facts submitted by the learned counsel appearing for the petitioners.

6.The learned counsel appearing for the private respondents submitted that the orders passed by the third respondent is perfectly valid and the said orders were passed in terms of



Section 11 (1) of the Tamil Nadu Societies Registration Act, 1975, which need not be interfered with and the Associations formed by the respective fourth respondent actively participated for the welfare of its members.

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7. Heard the arguments advanced on either side and perused the materials available on record.

8. The facts in the present case is not disputed. Admittedly, the respective fourth respondents are the members of the Executive Committee of the respective petitioners Watershed Associations and knowing fully well that the respective Watershed Associations are registered Associations, the respective fourth respondents formed new Association with identical names and also registered the same. Hence, the petitioners filed writ petitions in W.P.Nos.18774 and 18143 of 2003 respectively, before this Court seeking direction to the respondents therein to revoke the registration made by the respective fourth respondents and this Court vide orders dated 08.07.2003 and 02.07.2003 respectively, directed the third respondent to conduct enquiry with the petitioners and fourth respondents and to pass appropriate orders. Thereafter, the impugned orders came to be passed.

9. For better appreciation, the relevant portions of the Tamil Nadu Societies Registration Act, 1975 is extracted hereunder:

"9. Name of Society.-(1) No society shall be registered by a name which, in the opinion of the Registrar, is undesirable.

(c) identical with, or too nearly resembles, the name by which a society in existence has been previously registered.

11. Change of name of registered society.-(1) Any registered society may, by special resolution and with the approval in writing of the Registrar, change its name:

Provided that if a society, through inadvertence or otherwise, is registered by a name identical with that by which a society in existence is previously registered or so resembling it as to calculated to deceive, the first mentioned society may, with the approval in writing of the Registrar, change its name."

10. Perusal of the above said provisions clearly reveal that no society shall be registered by a name which, in the opinion of the Registrar, is undesirable, identical with, or too nearly



resembles, the name by which a society in existence has been previously registered. Any registered society may, by special resolution and with the approval in writing of the Registrar, change its name.

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11.Hence, the Registrar ought to have refused to register the subsequent Associations which have identical names as that of the petitioners Associations. However, the Registrar wrongly construed Section 11 of the Tamil Nadu Societies Registration Act, 1975 and passed the impugned orders, which is unsustainable one. The Registrar ought to have issued direction to the respective fourth respondents to change the name of their Associations by invoking Section 11 of the Tamil Nadu Societies Registration Act. Since the petitioners Associations were registered prior to the registration of the fourth respondents Associations, this Court is inclined to set aside the impugned orders.

12.These writ petitions are allowed. The impugned orders dated 28.08.2003 are set aside. Liberty is granted to the private respondents to make appropriate application before the Registrar in terms of Section 11 of the Tamil Nadu Societies Registration Act, 1975. If any such application is made by the private respondents, the Registrar shall consider the same and pass appropriate orders in favour of the private respondents, if the names of the Associations are not identical with the names of the petitioners Associations. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

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To

1.The District Collector,
Perambalur District,
Tamil Nadu.

2.The Inspector General of Registration,
Rajaji Salai,
Chennai - 1.



3.The Registrar of Assurances,
Ariyalur District.

+2ccs to Mr.V.Ragavachari, Advocate SR.No.11715, 11716

+1cc to Government Pleader SR.No.12325

W.P.Nos.32448 and
32449 of 2003

BS (CO)
GMY (21/03/2022)