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W.P. Nos.25811 & 25872 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. Nos.25811 & 25872 of 2022 and
W.M.P.No.24870 & 24872 of 2022 and
W.M.P.Nos.24945 & 24949 of 2022

W.P.No.25811 of 2022:

N.Chidambaranathan

... Petitioner

Vs.

1.The Inspector General of Registrartion,
Having office at
Santhome High Road, Chennai – 28.

2.The Registrar of Societies cum District Registrar,
O/o. North Chennai District,
Chennai.

3.M/s.South Indian Senguntha Mahajana Sangam,
Represented by its Secretary,
No.58, Armenian Street, Chennai – 600 001.

4.K.P.K.Selvaraj
President,
South Indian Senguntha Mahajana Sangam,
No.20, Bethi Chettipuram, East,
2nd Street, Tirupur – 641 601.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Mandamus directing the 1st and 2nd
respondents to conclude the enquiry on the complaint lodged on



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5.9.2020 and pending on the file of the respondent No.2 in Letter No.2149/E1/2020 dated 24.09.2020 and initiate action as per Section 36 of the Tamil Nadu Societies Registration Act.

For Petitioner : Mr.V.Raghavachari
for Mr.A.Manojkumar

For Respondent : Mr.K.Tippu Sulthan
Government Advocate for R1 & R2

: Mr.T.C.Gopalakrishnan for R3
: Ms.C.Devi for R4 (No appearance)

W.P.No.25872 of 2022:

1.P.T.Rajan
2.R.Ramalingam
3.S.Thangaraj

... Petitioners

Vs.

1.State of Tamil Nadu
Represented by its Secretary to Governments
Registration Department,
Fort St. George, Chennai – 600 009.

2.The Inspector General of Registration,
Registration Department,
Santhome, Chennai 600 028.

3.The District Registrar (Administration),
North Chennai (Registration District
1st Floor, Kuralazham, Chennai – 600 106.

4.South Indian Sengundha Mahajana Sangam,
Represented by its President and General Secretary,
No.58, Armenian Street, Chennai – 600 001.



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5.K.P.K.Selvaraj,
No.20, Bethi Chettipuram, East,
2nd Street, Tirupur – 641 601.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 1st and 2nd respondents to conduct an enquiry into the affairs of the 4th respondent Sangam and take further action as per the provisions of the Tamil Nadu Societies Registration Act, 1975 including appointment of the Special Officer.

For Petitioner : Mrs.Dakshayani Reddy

For Respondent : Mr.K.Tippu Sulthan,
Government Advocate for R1 to R3

: Mr.T.C.Gopalakrishnan for R4

: Ms.C.Devi for R5

COMMON ORDER

Since the issue raised in both the writ petitions is one and the same, with the consent of the learned counsel appearing for both sides, these writ petitions were heard together and are disposed of by this common order.

2. The 4th respondent Sangam called South Indian Sengundha Mahajana Sangam is the society registered under the Tamil Nadu Societies Registration Act. In the said 4th respondent Association, the petitioners in both the writ petitions claimed that they are the members.



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Against the present set of management i.e. the 5th respondent in WP.No.25872 of 2022 (4th respondent in WP.No.25811/2022), the petitioners independently had given complaints to various authorities including the Registrar of Societies i.e. District Registrar, Chennai and ultimately to the 1st respondent Inspector General of Registration in the first writ petition and the 2nd respondent in the second writ petition and those representations given to these authorities having been received was forwarded to the 3rd respondent District Registrar, Chennai for appropriate action. However, no such appropriate action since has been taken by conducting an enquiry on the complaints given by these petitioners against the present management of the 4th respondent Society, these petitioners have approached this Court by filing the present writ petitions.

3. Heard Mrs.Dakshyani Reddy, learned counsel appearing for the petitioner in W.P.No.25872 of 2022 and Mr.V.Raghavachari, learned counsel appearing for the petitioner in WP.No.25811 of 2022, Mr.T.C.Gopalakrishnan, learned counsel appearing for the respondent Sangam as well as Mr.K.Tippu Sulthan, learned Government Advocate appearing for the official respondents.



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4. The learned counsel appearing for the petitioners would submit that, if any complaint is given against the management of the society concerned, the Registrar i.e. the District Registrar of Societies, who is empowered to enquire the matter and decide the same, to enquire him by giving opportunity to both the complainant as well as the present management. However despite several such representations given in this regard by the petitioners at various point of time to both the Registrar as well as the Inspector General of Registration and the Deputy Inspector General of Registration though had been forwarded to the District Registrar to conduct the enquiry and to report the same by communicating the result of the enquiry to the petitioners also, nothing was forthcoming from the respondents i.e. the official respondents. Hence the petitioners have approached this Court by filing these writ petitions. Therefore, the learned counsels seek indulgence of this Court to issue a direction by way of mandamus to the Registrar concerned to enquire the matter and pass orders.

5. However, Mr.T.C.Gopalakrishnan, learned counsel appearing for Sangam i.e. the 4th respondent (in WP.No.25872/2022) on instruction



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would submit that, insofar as the conducting of any enquiry by the Registrar is concerned, that can be made only as contemplated under Section 36 of the Tamil Nadu Societies Registration Act, 1975 (in short 'the Act').

6. Under Section 36(1), the Registrar can enquire the matter only if an 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 who direct some person authorised by the Registrar by order in writing in this behalf to hold, an inquiry, into constitution, working and financial condition of that registered society.

7. Apart from this power under external agency, like the petitioners who may be the members of the society cannot claim before the Registrar to conduct an enquiry on the alleged complaint made by both against the present management of the Society.

8. Therefore, the learned counsel appearing for the Society would submit that, the complaint given by the petitioners itself would not be



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maintainable for giving any direction to the respondent i.e. the District Registrar to enquire into the matter in view of the provisions under Section 36 of the Act, therefore these writ petitions are liable to be dismissed, he contended.

9. I have heard the learned Government Advocate appearing for the official respondents who would submit that, already the complaint given by the petitioners are under consideration before the concerned authorities, therefore the Registrar concerned would take some reasonable time and would decide the same on merits and in accordance with law.

10. The learned Government Advocate would further add that, as per his instruction there are about 57,000 and more numbers of the society, therefore it is very difficult to enquire into the matter within a shortest time possible therefore a reasonable time may be given to the District Registrar to have atleast a preliminary enquiry on the substance of the complaint given by these petitioners and thereafter a decision can be taken after hearing both the petitioners as well as the present Management of the society.



11. I have considered the rival submissions made by both parties and have perused the materials placed before this Court.

12. Insofar as the complaint given by the petitioners whether it can be straightaway enquired by the Registrar and whether such power has been vested with him is the question. In this regard, even though Mr.T.C.Gopalakrishnan, learned counsel appearing for the society has pointed out that, Section 36 does not empower the Registrar to entertain any complaint given by individual or group of individuals other than the one-third of the members or majority members of the committee is concerned, on perusal of Section 36, this Court feels that the Registrar can entertain the complaint given by the majority of the members of the committee or not less than one-third of the members of that registered society. That apart, there is a *suo motu* power which also is vested with the Registrar under Section 36(1).

13. When that being so, the *suo motu* power can be exercised by the Registrar by triggering him by any X or Y who may be a member or even a third party by bringing to the notice of the Registrar about the financial irregularity or any violation that is taken place in the society concerned.



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14. Therefore, the complaint given by these petitioners can only be treated as a tool to trigger the Registrar to exercise his *suo motu* power. Therefore, the Registrar can very well enquire the matter based on the complaint, provided, if there is any substance in the complaint by invoking his *suo motu* power under Section 36 of the Act.

15. In that view of the matter this Court is inclined to dispose of this writ petition with the following orders:

That there shall be a direction to the 3rd respondent/
District Registrar (Administration), North Chennai,
(Registration District), Chennai (2nd respondent in
WP.No.25811 of 2022) to evaluate the substance of the
complaint given by the petitioners at various point of time
against the present Management of the society and if he
satisfied that there are *prima facie* substance available in
that complaint, he can go ahead with the enquiry under
Section 36 of the Act for which the Registrar can issue
notice to the present Management of the society and also to
the complainant or to any other person or persons who are



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in affairs with the said society and accordingly decide the issue on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

16. With the above direction, these Writ Petitions are disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

13.10.2022

Index : Yes/No

Speaking order : Yes/No

Sgl

To

1. Secretary to Governments
State of Tamil Nadu
Registration Department,
Fort St. George, Chennai – 600 009.
2. The Inspector General of Registration,
Registration Department,
Santhome,
Chennai 600 028.
3. The District Registrar (Administration),
North Chennai (Registration District
1st Floor, Kuralazham, Chennai – 600 106.



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R.SURESH KUMAR, J.

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