



**CRP.No. 3511 of 2019**

**WEB COPY** IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 17.11.2022**

**CORAM:**

**THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI**

**C.R.P.No. 3511 of 2019**

**and**

**CMP.Nos.22977, 23037 and 23039 of 2019**

**S. Rubert**

**.. Petitioner**

**Versus**

1. Paravar Welfare Association  
Formerly known as Paravar Elaigyar Nala Peravai  
A Society Registered under the Tamil Nadu  
Society Registration Act, S.No.131/1993  
Represented by its Secretary,

2. S.William Fernando
3. Micheal Viswasam

**...Respondents**

Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to set aside the docket order dated 22.10.2019 passed in IA.No.10990 of 2018 in O.S.No.5474 of 2017 on the file of XII Assistant City Civil Court, Chennai.



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For Petitioner : Mr.L.P. Maurya  
For R1 : Mr.K.S. Narayanan  
For RR 2 & 3 : No Appearance

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**ORDER**

This Civil Revision Petition has been filed to set aside the docket order, dated 22.10.2019 in I.A.No.10990 of 2018 in O.S.No.5474 of 2017 on the file of XII Assistant City Civil Court, Chennai.

2. The revision petitioner herein is the plaintiff and the respondents herein are the defendants in the original suit.

3. The learned counsel appearing for the first defendant/Society submitted that they are ready to amend the bye-laws during the General Body Meeting and also ready to register the same as per Section 27 of the Tamil Nadu Societies Registration Act. According to him, the first defendant was directed to place the newly amended bye-laws, before the General Body Meeting by giving due notice as contemplated under Rule 25 of the Tamil Nadu Societies Registration



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Rules, which was already done and thereafter, proceed to register the same in the manner known to law. Therefore, two months time was granted for the same from the date of receipt of a copy of the order. On receipt of the notice with regard to General Body Meeting, the petitioner/plaintiff was directed to withdraw the suit which is pending on the file of XII Assistant City Civil Court, Chennai, and that based upon the newly amended bye-laws, new Election will be conducted.

4. None appeared on behalf of the respondents 2 and 3/defendants 2 and 3.

5. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials available on record.

6. On a perusal of the records, it is seen that the petitioner/plaintiff has filed the suit in O.S.No.5474 of 2017 before the XII Assistant City Civil Court, Chennai, for declaring that the Election



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Notification dated 07.10.2017 issued by the defendants 2 and 3 as null and void and non-est in the eye of law and not binding on the members of the 1st defendant/Society, and consequential mandatory injunction restraining the defendants 2 and 3 from in any way giving effect to the Election Notification dated 07.10.2017 and restraining the 1st defendant/Society in any way conducting the Election on 29.10.2017 at 5.00 p.m. at Hotel Shan Royal, No.85, Poonamallee High Road, Koyambedu, Chennai - 600 107, contrary to the bye-laws of the 1st defendant/Society. After perusing the records, the trial Court, dismissed the said application by order dated 22.10.2019. Challenging the same, the present revision is filed.

7. The defendants have filed detailed written statement denying the plaint averments and contended that as per the existing un-amended bye-laws there is no concept called Life Members and therefore, calling only Life Members for Election is *per-se* illegal and non-est in law. Incidentally, in the counter affidavit filed by the respondents in I.A.No. 2274 of 2018 at Para No.23, they have admitted the fact that amendment



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to the bye-laws, including the issue of Life Members, have been filed before the Registrar of Societies only on 23.10.2017. Further, it is submitted that the Election is conducted as per the Notification and as per amended bye-laws of the Association. The contention of the plaintiff in the suit so far issues have not been framed. At this juncture, the petitioner/plaintiff filed I.A.No.10990 of 2018 under Order XII Rule 6 of CPC., seeking to pass judgment and decree allowing the reliefs as sought for in O.S.No. 5474 of 2017, based upon the admission of the 1st defendant/Society. The defendants admit that the bye-laws were amended, but the same is not yet registered before the Registrar of the Societies. Therefore, the petitioner/plaintiff prayed to pass judgment and decree based upon the admission of the first defendant. The said application was resisted by the first defendant by filing counter statement stating that whether the Election Notification is nullity or not, has to be decided by the trial Court and furthermore, they have not made any admission as claimed by the plaintiff following such application under Order XII Rule 6 of CPC., which is an abuse of process of law and prayed for dismissing the said application.



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**8.** On considering the submissions of both sides, the trial Court held that the Election Rules have not been amended, but merely presented for registration on 23.10.2017. It further held that the matter is posted for trial and accordingly, the said application was dismissed. Challenging the said finding, the revision petitioner has approached this Court and trial Court ought to have allowed the said application considering the payment made by the first defendant/Society, instead of the Civil dispute which has to be decided at the time of trial, is unjustified and erroneous one.

**9.** There is no representation on the side of the respondents 2 and 3.

**10.** Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent and perused the materials available on record.



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**11.** On a perusal of the records, it is seen that the petitioner/plaintiff has approached this Court to declare the conduct of Elections as null and void. But the learned counsel for the revision petitioner brought to the notice that the Election was already held on 2017-2018. Furthermore, the learned counsel for the revision petitioner submitted that there is a possibility of conducting an Election in the forthcoming period and if they conduct Election based upon the newly amended bye-laws, without registration being done, it would be in detriment and as such, there is possibility of conducting further Election, he prayed for direction to the respondents to register the newly amended bye-laws before conducting fresh Elections.

**12.** It is evident from the records that the suit is posted for trial, and the relief claimed in the plaint also to be decided by adducing his evidence. As per the claim made by the defendants, the bye-laws were amended, but not yet registered so far. Therefore, the reasons assigned by the trial Judge, as such, have to be accepted. However, if any further Election is conducted by the defendants, without amendment of



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registration Rules, it cannot be allowed to be conducted as it would lead to multiplicity of proceedings.

**13.** As per the earlier order passed by this Court in CRP.(PD).No.2356 of 2018, dated 29.11.2018, Para No.2 of the order is extracted as follows:-

"2. In the present revision petition, it was the stand of the petitioner that the election was conducted on the basis of the bye-laws which is yet to be amended and therefore, this Court also granted an order of interim stay. It is seen that the effect of the stay granted, leaves the Association without any administrative body to govern its activities and it is also brought to my notice that the Association is involved in many welfare activities also. When the Election has already been conducted and the injunction came to be granted subsequently, the trial Court ought to have taken into consideration as to the subsequent status of the administration of the Association. The learned counsel for the petitioner submits that he had already made an application for appointment of Adhoc Committee to administer the Association interregnum



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and the order is yet to be pronounced on the same. Hence, admittedly, even according to the petitioner, there are nobody to govern the Association. In my view, until and unless the Adhoc Committee is constituted and a final order is pronounced either to the amendments sought for in the bye laws or in the suit, it would be just and appropriate to permit the office bearers of the Association elected pursuant to the election dated 29.10.2017, to continue with the administration".

**14.** As per the contention of the revision petitioner, so far, the amended bye-laws are not registered before the Registrar of the Societies, as per Rule 27 of the Tamil Nadu Societies Registration Rules, 1978, and an extraordinary General Body Meeting of the Society, referred to Section 28, shall be called within one month from the date of receipt of requisition in writing from the number of members specified in the bye-laws of the Society. Further, the provision of Rule 25 regarding notice of the General Body Meeting to the members shall apply to the extraordinary General Body Meeting also.



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**15.** It is submitted that as per Section 12(4) of the Tamil Nadu Societies Registration Act, 1975, an amendment of memorandum and bye-laws, if the Registrar is satisfied that the amendment of the memorandum or the bye-law is not contrary to the provisions of this Act, or the rules made thereunder, he may register the amendment. When the Registrar registers an amendment of the memorandum or the bye-laws, he shall issue to the registered society a copy of the amendment certified by him, which shall be conclusive evidence that the amendment has been duly registered. Any amended bye-laws will come into force only on the date on which it is approved by the Registrar of the Societies.

**16.** Rule 14 of the Tamil Nadu Societies Registration Rules, relates to an application for registration of amendment of memorandum and bye-laws. Every application made to the Registrar for the registration of an amendment of memorandum or bye-laws shall be signed by one of the members of the Committee and shall be accompanied by a copy of the Special Resolution relating to the amendment with the date of passing of such special resolution and copies of the proposed amendment in



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duplicate and the fee set out in the Schedule to the Act.

**17.** As per the Rules, immediately after the Resolutions are passed by the Society, they have to present such resolutions before the Registrar within three months. However, they have not presented the said Resolution within the time limit of three months and it is submitted by the revision petitioner that even in the proceedings relating to the miscellaneous petitions placing reliance on the pending application, this Court observed that the pendency of the application for amendment of the bye-laws is pending before the Registrar of Societies. Therefore, when the newly amended bye-laws are not registered, as per Section 27 of the Societies Act, the first defendant/Society has no right to proceed with the Election for the forthcoming year.

**18.** The learned counsel for the revision petitioner submitted that the first defendant/Society ought to have conducted the Election, if any proposed, only based on the unamended bye-laws or conducted the Election after amending and registering the bye-laws.



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**19.** In view of the aforesaid position, the first defendant is directed to place the newly amended bye-laws, which was already done, before the General Body Meeting by giving due notice, as contemplated under Rule 25 of the Tamil Nadu Societies Registration Rules and thereafter, proceed to register the same in the manner known to law. Two months time is granted from the date of receipt of a copy of this order, for completing the aforesaid process. After receipt of notice with regard to General Body Meeting, the petitioner/plaintiff is directed to withdraw the suit, which is pending before the trial Court. Based upon the newly amended bye-laws, new Election shall be conducted in accordance with law.

**20.** With the aforesaid directions, this Civil Revision Petition is disposed of. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petitions are closed.

**17.11.2022**

Speaking order : Yes/No

Index : Yes/No

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To

1. The XII Assistant City Civil Court, Chennai.
2. The Section Officer, V.R.Section,  
High Court, Madras.



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**T.V.THAMILSELVI, J.**

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