



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

O.S.A. No.425 of 2018
and CMP.No.19239 of 2018

R.Govindarajan ...Appellant/ 3rd Defendants

Vs.

1. Tamil Nadu Electricity Board Engineers' Sangam,
Reg. No.124/MDS (recognized),
Rep. by its General Secretary Mr.V.S.Sampathkumar,
793, Anna Salai, Chennai 600 002.
2. V.S.Sampathkumar
3. S.Manoharan
4. Kalyanasundram
5. M.Subramanian ...Respondents/ Plaintiffs and
Defendants 1 & 2

Prayer: Original Side Appeal filed under Section Order XXXVI Rule 1 of O.S. Rules under Clause 15 of Letters Patent against the fair and decretal order dated 23.10.2018 passed in Application No.142 of 2015 in O.A.No.869 and 870 of 2012 in C.S.No.689 of 2012.

For Appellant : Mr.C.Umashankar

For Respondents
for R1 : Mrs.Chitra Sampath
for Mr.Sundar Narayan

for R3 to R5 : Ms.N.R.Jasmine Padma

J U D G M E N T

[Judgment of the Court was delivered by T.RAJA, J]

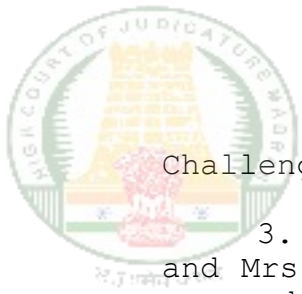
This appeal has been filed against the fair and decretal order dated 23.10.2018 passed by the learned Single Judge in Application No.142 of 2015 in O.A.No.869 and 870 of 2012 in C.S.No.689 of 2012, in and by which, the appellant herein was directed to hand over the possession of the subject building to



the first respondent Sangam, viz., Tamil Nadu Electricity Board Engineers' Sangam.

2. The sole grievance of the first respondent before the Trial Court and also before this Court is that the Tamil Nadu Electricity Board Engineers' Sangam situated at 74, Swaranambika Layout, Ram Nagar, Coimbatore 641009 is being unjustly utilised by various persons, who are not members of the Tamil Nadu Electricity Board Engineers' Sangam. As a result, the registered members and the office bearers of the Tamil Nadu Electricity Board Engineers' Sangam are not in a position to use the premises to their optimum level. Hence, the first respondent filed a Civil Suit in C.S.No.689 of 2012, before this Court seeking decree of permanent injunction restraining the defendants, their servants and agents from holding themselves out as the duly elected office bearers of the first plaintiff; permanent injunction restraining the defendants, from obstructing and interfering with the functioning and management of the plaintiff; and also for a consequential decree of mandatory injunction directing the defendants to return the original letter-heads, receipt books, cash voucher slips, enrollment forms and seals bearing the name of the first plaintiff illegally obtained from the office of the first plaintiff. Along with the suit, interim injunction applications in O.A.Nos.869 and 870 of 2012 were also filed. This Court, after hearing the parties at length, passed the decretal order in O.A.Nos.869 and 870 of 2012 in C.S.No.689 of 2012 on 08.01.2013. Aggrieved thereby, OSA.No.81 of 2013 was filed and the same was dismissed on 01.03.2013. Thereafter, in spite of the dismissal of the appeal, the appellant and others formed a different Union leaving the Tamil Nadu Electricity Board Engineers' Sangam and occupied the premises belonging to the Tamil Nadu Electricity Board Engineers' Sangam, and started interfering with the same. Subsequently, alleging willful disobedience of the order dated 08.01.2013 passed in O.A.Nos.869 and 870 of 2012 in C.S.No.689 of 2012, A.No.142 of 2015 was filed for punishing the defendants. After heavy contest, the said application was allowed by the order dated 23.10.2018. The relevant paragraph of the said order is extracted hereunder:

"6. In such circumstance, a direction issued to the 3rd respondent, who was the founder General Secretary and to the present General Secretary of Tamil Nadu Electricity Board Engineers Union to hand over possession of the building to the applicants' Sangam within a period of one (1) week from today. Learned counsel appearing for the applicant and the respondents are directed to intimate the order of the Court to the Tamil Nadu Electricity Board Engineers Union and its Office bearers in order to enforce compliance of the injunction order in letter and spirit."



Challenging the said order, the present appeal is filed.

3. Heard Mr.C.Umashankar, learned counsel for the appellant and Mrs.Chitra Sampath, learned Senior Counsel appearing for the respondents 1 and 2 and Ms.N.R.Jasmine Padma, learned counsel for the respondents 3 to 5

4. After some arguments, today, appellant/Mr.R.Govindarajan, filed an affidavit dated 16.01.2022, informing this Court that the possession of the building at No.74, Swarnamika Layout, Ram Nagar, Coimbatore is not with him and he is not in possession of the said building and land. Therefore, he has not committed any act of contempt. In paragraph 4 of the said affidavit, he has stated that he is a law abiding citizen and if it is found that he had committed any act of contempt, he profoundly apologize to this Court and he may be pardoned. He further stated that he retired from service in the Tamil Nadu Electricity Board long back, i.e., on 30.04.2014, Now, he is indisposed owing to his ill health due to varicose vein and rheumatic problem. He is not in a position to move around and literally he is bedridden and almost immobile and therefore, making allegation that he is in possession of the building in question, is unbelievable and untenable.

5. However, Mrs.Chitra Sampath, learned Senior Counsel appearing for the first respondent submitted that although appellant/Mr.R.Govindarajan filed a detailed affidavit tendering unconditional apology, he should be punished, if he is found guilty of contempt. He cannot say that the property was purchased by the Coimbatore Tamil Nadu Electricity Board Supervisors Sangam, Pykara Electricity Sangam as a vacant land and a building was constructed with the contribution made by the members of the said branch Sangam. Therefore, it cannot be said that those members, who are said to have made contribution for construction of the first respondent/Sangam although left the Sangam, are entitled to use it. Once they had parted as office bearers from the Sangam, they are not permitted to visit the Sangam, unless once again they become members legally or they are invited by the first respondent.

6. In view of the above submissions made on either side, we are in full agreement with the statement made by Mrs.Chitra Sampath, learned Senior Counsel regarding visitation rights to the first respondent/Sangam. But looking at the affidavit filed by the appellant/Mr.R.Govindarajan, it is seen that he retired from the Tamil Nadu Electricity Board long time back, i.e., on 30.04.2014 and now he is indisposed due to varicose vein and rheumatic problem and also immobile and he is not in possession of the building in question. He also tendered unconditional apology, if he committed any contempt of Court.



7. In view of the above facts and circumstances and submissions made, accepting the unconditional apology tendered by the appellant/Mr.R.Govindarajan, it is made clear that as Mr.R.Govindarajan already retired from service long back, he is not entitled to visit, unless he is specifically invited by the first respondent to participate in any function or programme. It is needles to mention that Mr.R.Govindarajan is not legally entitled to interfere with the possession and enjoyment of the first respondent/Sangam. It is further made clear that other persons, who are similarly placed like that of Mr.R.Govindarajan, even though originally became members of the first respondent/Sangam, subsequently they severed the relationship for the reasons best known to them, now once again cannot claim to use the premises of the first respondent/Sangam. Therefore, neither Mr.R.Govindarajan nor any other person is entitled to use the premises of the first respondent Sangam. Learned Counsel appearing for the respondents 3 to 5 also stated that none of them had visited the premises of the first respondent Sangam, therefore, respondents 3 to 5 are also not entitled to interfere with the first respondent Sangam.

8. With the above observations, the appeal is dismissed. Consequently, A.No.142 of 2015 in O.A.Nos.869 and 870 of 2012 in C.S.No.689 of 2012 stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

pvs

To:

1.The Sub Assistant Registrar(OS)
Original Side,
High Court, Madras.

+1cc to Mr.Sundar Narayan, Advocate, S.R.No.4800
+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.5123
+1cc to M/s.C.Umashankar, Advocate, S.R.No.5571

O.S.A. No.425 of 2018

RSI (CO)
SB(23/03/2022)