IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

W.P.No.1608 of 2020
and W.M.P.No.1885 of 2020

S.Chinna Gounder ... Petitioner

Vs.

1. The Principal Secretary,
   Commercial Taxes and Registration Department,
   Secretariat, St.George Fort,
   Chennai – 600 009.

2. The Inspector General of Registration,
   100, Santhome High Road,
   Pattinapakkam, Chennai – 600 028.

3. The District Registrar (West),
   Office of Registration (West),
   Salem.

4. S.Balasundaram ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records in G.O.(D).No.223 dated 18.11.2019 on the file of the 1st respondent and quash the same as illegal, as it against the provisions of Tamil Nadu Societies Registration Act and Rules.

For petitioner	:	Ms.L.Sweety for S.Ramesh Kumar
For respondents	:	Mr.M.Alagu Goutham,GA for R1 to R3 Mr.P.Raja for M/s.K.Jegraj for R4

ORDER

This writ petition has been filed seeking for issuance of a writ of Certiorari to quash G.O.(D).No.223 dated 18.11.2019 on the file of the 1st respondent as it is against the provisions of Tamil Nadu Societies Registration Act and Rules.

2. It is the case of the petitioner that the petitioner, fourth respondent and others formed a society in the name and style of Sri Sastha Nagar Manai Nila Sonthakkarargal Sangam registered as S.No.24 of 1983 under Tamil Nadu Societies Registration Act, 1975 (Tamil Nadu Act 27 of 1975) (hereinafter referred to as 'the Act'). According to the petitioner, the said society actively performed its duties only for a period of three years. Thereafter, the fourth respondent and his family members took over the administration of the society and did not file the audit report and books of accounts from the year 1992 till 2018. However, after a lapse of 26 years, the fourth respondent has paid Rs.7,55,700/- from the funds of the Sangam,

contributed by the members as penalty u/s.49 of the Act and made a representation dated 24.10.2018 to the first respondent to revive the defunct Sangam by condoning the delay of 26 years, which resulted in the petitioner filing an objection petition on 13.03.2019, pursuant to which the first respondent vide G.O.(D)No.223, Commercial Taxes and Registration Department, dated 18.11.2019 exempted the delay under Section 54 of the Act. Challenging the same the petitioner has come up with the relief supra.

3. The learned counsel appearing for the petitioner submits that though the fourth respondent has not filed the audit report and books of accounts for a period of 26 years, the first respondent allowed the representation made by the fourth respondent for reviving the said sangam condoning the delay of 26 years by invoking Section 37(3) of the Tamil Nadu Societies Registration Rules, 1978 without considering the objection filed by the petitioner which is *per se* unsustainable. Hence, the impugned G.O.(D)No.223, Commercial Taxes and Registration Department, dated 18.11.2019 issued by the first respondent is liable to be quashed as it is against the provisions of Tamil Nadu Societies Registration Act and Rules.

4. The Learned counsel appearing for the respondents 1 to 3 submitted that the petitioner has every right under Section 14(2) and 29(3) of the Act to verify the accounts book, minute books and members register, free of cost during business hours of the society. Whereas, the petitioner without perusing the said records has simply alleged the society with regard to maintenance of accounts etc., Further the Act does not permit enquiry on the allegation of a member on the working and financial condition of the society. It is further submitted that since the petitioner alone made allegations against the society without any documentary evidences to prove the same, no enquiry can be conducted by the first respondent. In support of his contentions, he relied upon the decision of this Court in the case of ***A.Samiappan Vs. The District Registar, Office of the Registrar of Societies, Chennai and Others*** reported in ***2007 (4) MLJ 421.***

5. On the above contentions heard learned counsel appearing for the fourth respondent and perused the materials placed on record.

6. It is not in dispute that the fourth respondent made an application before the first respondent for revival of defunct sangam. However, it is the

grievance of the petitioner that though the fourth respondent has not filed the audit report for a period of 26 years, the first respondent allowed the representation made by the fourth respondent seeking revival of aforesaid sangam without considering the objections made by the petitioner by invoking Section 37(3) of the Tamil Nadu Societies Registration Rules, 1978. Though such a stand is taken by the petitioner, it is seen that except the petitioner no other person made allegations against the sangam. Further, in the absence of the petitioner placing documentary evidence to prove the allegations against the aforesaid sangam, this Court cannot quash the impugned order passed by the first respondent.

7. For the reasons aforesaid, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking order / Nonspeaking order
Netrual Citation Case : Yes / No
(rap)

M.DHANDAPANI, J.

(rap)

To

1. The Principal Secretary,
   Commercial Taxes and Registration Department,
   Secretariat, St.George Fort,
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2. The Inspector General of Registration,
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W.M.P.No.1883 of 2020
in
W.P.No.1608 of 2020

M.DHANDAPANI ,J.

Dispensed with for the present.

19.04.2023
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