



W.A.No1980 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.1980 of 2021

Manurkula Devanga Vasaga Salai
(Regn.No.36/2009)
rep. by its President V.Sekar,
Salem-2.

.. Appellant

Vs

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 004.

2.The District Registrar,
Salem.

3.The Periyar Self Respect Propaganda Institution,
rep. by its Secretary K.Veeramani,
E.V.K.Sampath Salai, Vepery,
Chennai-600 007.

4.Salem Suyamariyathai Sangam,
rep. by its President Palani Pullaiyanan,
287-290, Trichy Main Road,
Dhathagapatti,
Salem-6.

.. Respondents



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Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 13.1.2020 passed in W.P.No.21277 of 20213.

For the Appellant : Mr.Rahul Balaji

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondent Nos.1 and 2

: Mr.A.Thiyagarajan
Senior Counsel
for Mr.D.Veerasekaran
for respondent Nos.3 and 4

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

This writ appeal is directed against the order dated 13.1.2020 passed by the learned Singe Judge in W.P.No.21277 of 2013.

2. The appellant herein has filed W.P.No.21277 of 2013 challenging the order of the first respondent dated 19.6.2013, whereby the order of the second respondent dated 8.9.1998 approving the amalgamation of the appellant's society with the fourth respondent society was set aside.



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3. Assailing the impugned order of the learned Single Judge, Mr.Rahul Balaji, learned counsel for the appellant, submitted that the learned Single Judge erred in holding that the prerequisite for amalgamation of two societies in terms of Section 30 of the Tamil Nadu Societies Registration Act, 1975 (for short, "*the Act of 1975*") is that the object of both the societies ought to be similar, while no such pre-condition has been prescribed by any of the provisions of the Act of 1975.

4. Drawing our attention to Section 30 of the Act of 1975, learned counsel for the appellant further submitted that the learned Single Judge erred in holding that "prior approval of the Registrar" is required for the purpose of passing a special resolution by both the societies regarding amalgamation, while a bare perusal of Section 30(1) of the Act of 1975 would clearly show that "prior approval of the Registrar" is required only for the purpose of amalgamation and not for the purpose of passing a special resolution. Assuming arguendo that "prior approval of the Registrar" is required for the purpose of passing a special resolution, the same is only a curable



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defect and the same cannot be a fatal.

5. Learned counsel for the appellant would submit that the learned Single Judge failed to note that though one of the objects of Devanga Society is to provide education to children belonging to Devanga caste, children belonging to all castes have been admitted and provided education. In fact, the third respondent is attempting to take control of the assets of the amalgamated Devanga society by taking advantage of the present circumstances.

6. Learned counsel for the appellant urged that the learned Single Judge failed to note that the third respondent has no locus standi to file any appeal/representation against the order of amalgamation dated 8.9.1998 and the appeal filed by the third respondent against the order of amalgamation dated 8.9.1998 ought not to have been entertained, as there is no provision in the Act of 1975 to file an appeal against the order granting amalgamation. In fact, the learned Single Judge erred in not holding that the first respondent cannot exercise revisional



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jurisdiction to set aside the order passed by the second respondent after a delay of 15 years. In all aspects, the order of the learned Single Judge is erroneous and the same is liable to be set aside.

7. Mr.A.Thiagarajan, learned senior counsel appearing for respondents 3 and 4, heavily contended that if amalgamation is allowed to take place between the appellant and the fourth respondent, huge valuable properties belonging to the fourth respondent would be taken over by the appellant. Considering all these aspects, the first respondent has rightly passed the order setting aside the order of the second respondent granting approval for amalgamation of the appellant's society with the fourth respondent society.

8. Learned senior counsel for respondents 3 and 4 further submitted that the objects of the appellant and the fourth respondent are diametrically opposite to each other, inasmuch as the aim of the fourth respondent is to bring a caste less and religion less community. In other words, it is urged that the appellant



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society is a society formed by a particular community people, whereas the fourth respondent society is a society formed by rational thinking people, who are opposed to superstitious beliefs, caste and religion, and one of their objectives is the welfare of the women and downtrodden people. The learned Single Judge, having considered all these aspects, has rightly dismissed the writ petition. Therefore, the order of the learned Single Judge warrants no interference. Thus, a prayer has been made to dismiss the writ appeal.

9. We have considered the submissions raised by learned counsel appearing on either side and also perused the materials available on record.

10. On a perusal of the objects of both the societies, it is seen that they are entirely different from each other and, as rightly observed by the learned Single Judge, it cannot be said that both the societies have a common object. Further, the perusal of records reveals that the fourth respondent society was registered in



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the year 1957 and at the time of passing the resolution for amalgamation in the year 1998, there were 22 members, out of them 11 members have joined the society between 1993 and 1995 and the oldest member available in the fourth respondent has joined the society in the year 1972. Thus, the contention of the third respondent that the newly joined members had played a role in the amalgamation without considering the object of the society cannot be brushed aside.

11. As rightly observed by the learned Single Judge, the first respondent in its order has elaborately considered the issue and has come to a conclusion that the order passed by the second respondent is not in accordance with the Act of 1975 and, as such, granting approval for amalgamation is erroneous. Finding that the amalgamation has been done without following the mandatory requirement under Section 30 of the Act of 1975 and also based on the misrepresentation, the learned Single Judge held that there is no illegality or irregularity in the order passed by the first respondent and has rightly dismissed the writ petition. We find no infirmity in



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the findings arrived at by the learned Single Judge. Therefore, the writ appeal fails and the same is dismissed.

12. At this stage, learned counsel for the appellant submitted that liberty may be granted to the appellant to approach the civil court seeking appropriate remedy. Considering the submission made by learned counsel for the appellant, liberty as prayed for is granted.

There will be no order as to costs. Consequently, C.M.P.Nos.12761 and 12763 of 2021 are closed.

(T.R., ACJ.) (D.B.C., J.)
31.01.2023

Index : No
Neutral Citation : No
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To

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