



W.P.No.35202 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	08.11.2022
Pronounced On	11.01.2023

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.35202 of 2012
and M.P.No.1 of 2012

District Cricket Association of Erode,
Rep.by its Secretary
S.Surendran

... Petitioner

vs.

1. The Inspector General of Registration,
Santhome High Road,
Chennai 600 004.

2.The District Registrar of Societies (In-charge)
District Registrar Office,
Krishnampalayam,
Erode 638 003.

3.Erode District Cricket Association,
Rep.by its Secretary,
T.Mohammed Khaleel

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records of the second respondent comprised in and by his proceeding No.1962/E/2012



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dated 29.11.2012 and quash the same, consequently directing the respondents to permit the petitioner continue to function in the name of “ District Cricket Association of Erode”.

For Petitioner : Mr.R.Share
for Mr.M.Guruprasad

For R1 & R2 : Mr.E.Sundaram
Government Advocate.

For R3 : Mr.G.K.Gaarkey Chandhar
for M/s.R.Srinivasan

ORDER

The petitioner herein a District Cricket Association of Erode has filed this writ petition and has challenged the impugned order dated 29.11.2012 passed by the 2nd respondent/District Registrar of Societies.

2. By the impugned order, the petitioner has been directed to alter its registered name viz., District Cricket Association of Erode” within a period of one month. The petitioner herein has obtained an interim stay of the impugned order at the time when the case was listed for admission.



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3. The Erode District Cricket Association/third respondent had earlier filed W.P.No.2250 of 2012 to dispose its (petitioner therein) representation dated 18.12.2011. The said writ petition was disposed by this Court.

4. The 3rd respondent thereafter had filed W.P.No.19484 of 2013. Since the relief sought for insofar as the alleged resemblance between the two names of the petitioner and the 3rd respondent was dealt by the impugned order dated 29.11.2012, the said writ petition was dismissed.

5.The facts in brief are as follow:-

A Cricket Association named Periyar District Cricket Association is said to have been in existence since 1980 with effect from 31.05.1980 vide Registration No.37/1980 under the provisions of the Tamilnadu Societies Registration Act, 1975 prior to bifurcation of the Periyar District into Erode District and Salem District. However, over a period of time, the said Association become a defunct association.



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6. It appears that some of the members of the erstwhile Periyar District Cricket Association joined together and form an unregistered association called themselves as Erode District Cricket Association. However, no steps were taken to register themselves under the Tamilnadu Societies Registration Act, 1975. Later, the 3rd respondent was registered in the year 1996 with Register No.91/1996.

7. Since the petitioner was registered a District Cricket Association of Erode, a suit was filed by the 3rd respondent in O.S.No.552 of 2010 before the District Munsif Court, Erode for a bare injunction to restrain the petitioner herein from using the said name which according to the 3rd respondent was similar to the registered name of the 3rd respondent.

8. Meanwhile, the petitioner association came to be registered with Registration No.71/2010 with its current name viz., District Cricket Association of Erode in the year 2010. Under these circumstances, the said suit filed by the 3rd respondent in O.S.No.552 of 2010 was dismissed by the District Munsif Court, Erode by its judgment and decree dated 16.07.2015.



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9. It is in this background, the 3rd respondent appears to have given a complaint to the 1st and 2nd respondent on 18.12.2011 followed by W.P.No.2250 of 2012 which came to be ordered on 01.02.2012.

10. The specific case of the petitioner is that the impugned order has been passed in gross violation of principles of natural justice in as much as neither the petitioner's objections dated 25.06.2012 was considered by the 2nd respondent nor the petitioner was heard.

11. It is submitted that the orders suffer from non-application of mind, apart from having been passed in gross violation of principles of natural justice and is therefore liable to be quashed.

12. The learned counsel for the petitioner would submit that the petitioner is affiliated to the Tamilnadu Cricket Association (TNCA) and that matches are being held under the auspices of the Tamilnadu Cricket Association by the petitioner. The continuance of the petitioner's registration therefore should not be altered as it would lead to confusion in th cricketing



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sports fraternity. It is submitted that there is a lot of difference between the two names of the petitioner and the third respondent.

13. The learned counsel for the petitioner further submits that all along the petitioner's association was running an unregistered association in the name and style of Erode District Cricket Association which was usurped and registered by the 3rd respondent without the knowledge of the members of the petitioner's association and therefore the petitioner registered itself as District Cricket Association of Erode.

14. The impugned order is defended by the official respondents as also by the 3rd respondent (Petitioner in W.P.No.19484 of 2013) on behalf of the official respondents. It is submitted that the petitioner was issued a proper notice for hearing. The petitioner merely filed a vakalat through an Advocate. However, failed to appear for a hearing fixed before the 2nd respondent and therefore based on the available records the impugned order has been passed by the second respondent.



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WEB COPY 15. It is submitted that there is no irregularity committed by the 2nd respondent herein while passing the impugned order and therefore in violation of the Jurisdiction under Article 226 of the Constitution of India was unwarranted.

16. The learned counsel for the official respondent further submits that the petitioner had not filed the so-called aforesaid objection dated 25.06.2012 and therefore the second respondent cannot be blamed. Hence, it is submitted that the present writ petition is devoid of merits and is therefore liable to be dismissed.

17. The learned counsel for the 3rd respondent (Petitioner in W.P.No.19484 of 2013) drew attention to Section 9 of the Tamil Nadu Societies Registration Act, 1975. It is submitted that as per Explanation to Section 9, it is clear that no society shall be registered with a name that un-desirable. It is submitted that Explanation to Clause (c) to Section 9(i) makes it clear that if name is identical with, or nearly resembles, the name by



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which a society in existence which has been previously registered,
registration cannot be granted.

18. It is further submitted that the 3rd respondent was registered in the year 1996 with Registration No.91/1996. The registration of the 3rd respondent in the year 1996, being prior in time subsequent registration in favour of the petitioner in the year 2010 vide Registration No.71/2010 was unwarranted and contrary to Section 9 of the Tamil Nadu Societies Registration Act, 1975.

19. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

20. The two names are almost identical. It has resulted in the complaint being filed by the third respondent on 18.12.2011. The prior registration is in favour of the 3rd respondent with the name of Erode District Cricket Association. The subsequent registration in favour of the petitioner in the year 2010 is in the name of District Cricket Association of Erode.



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WEB COPY 21. The impugned order dated 29.11.2012 passed by the second respondent no doubt has been passed in violation of principles of natural justice in as much as it contains no reasons.

22. The facts on record however indicate that though the petitioner had entered appearance through a counsel before the second respondent, failed appear before the second respondent on the date fixed for the personal hearing before the second respondent.

23. The petitioner also has not filed any document to substantiate that the so-called reply/representation/objection dated 25.06.2012 was indeed filed before the second respondent before the impugned order was passed by the second respondent.

24. The question therefore to be answered is whether the impugned order passed by the second respondent is required to be quashed and the case deserves to be remitted back to the second respondent to decide the case



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afresh on merits after a lapse of more than a decade based on the submissions of the counsels for the respective parties hereto or whether the case can be decided on merits.

25. In my view, no useful purpose would be served by quashing the impugned order to remit the case back to the second respondent to pass a fresh order on merits. Except to prolong the longevity of the litigation by another decade or more, I see no useful purpose will be served by remitting the case back to the second respondent. There are also no disputed questions of facts involved in the present case to warrant a remand to the second respondent.

26. I therefore proceed to decide the case on merits as to whether the impugned order passed by the second respondent sustainable as there are no disputed questions of fact.

27. This Court is aware of the restrictions/scope of a judicial review of an order Under Article 226 of the Constitution of India. A writ Court, is



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really concerned with the decision making process and not with the decision *per se*.

28. The second respondent can hardly be blamed as the petitioner was recalcitrant and had failed to file its objection and/or appear before the second respondent before the impugned order was passed. The only issue to be decided is whether the subsequent registration in the year 2010 in favour of the petitioner offends Section 9(1)(c) of the Tamil Nadu Societies Registration Act, 1975 and whether the impugned order by the second respondent directing cancellation of the registration name vide in the year 2012 is sustainable or not.

29. Section 9(1)(c) of the Tamil Nadu Societies Registration Act, 1975 prohibits registration of the society with a name which is identical with or so nearly resembles, the name by which another society in existence has been previously registered.



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30. In **The British Diabetic Association Versus The Diabetic Society** (1995) 4 All ER 812, it was held that there was sufficient similarity between the two names to necessitate and warrant a change, even though there was no intention to mislead the public.

31. In this case, the third respondent was registered prior in time in the year 1996. The registration in favour of the petitioner was much later in time in the year 2010. Thus, the subsequent registration in favour of the petitioner in the year 2010 as District Cricket Association of Erode ought not to have been allowed. Registration with similar name prior in time in favour of the third respondent as Erode District Cricket Association clearly barred subsequent registration District Cricket Association of Erode in favour of the petitioner.

32. The registration of the petitioner with the name District Cricket Association of Erode was therefore undesirable meaning of Section 9(1)(c) of the Tamil Nadu Societies Registration Act, 1975.



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33. The registration of the petitioner with the aforesaid name was clearly undesirable and was therefore liable to be removed/rectified particularly in the light of the facts of the present case as both the petitioner and the third respondent are connected with same sports i.e Cricket in the same district within the State of Tamil Nadu.

34. The two names being identical there is scope for confusion among the members of the sporting fraternity and community. Therefore, there is no merits in the present writ petition.

35. Even if the name was adopted honestly by the petitioner, the petitioner cannot latch onto the name which was inadvertently allowed to be registered in its name. The use of the name for the last 10 years of so since the date of interim order cannot present itself as a *fait accompli* as the registration granted in favour of the petitioner with the name District Cricket Association was not only unwarranted but also undesirable and continues to be undesirable. It can lead to confusion as there is usurpation of the name by merely changing the sequence of the word from the third petitioner's name



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Erode District Cricket Association. The adoption of the name was not deceptive but also can result in confusion.

36. In my view, although the order of the second respondent dated 29.11.2012 has been passed without a proper reason, the fact remains that the registration in favour of the petitioner with the aforesaid name was liable to be directed to be changed in view of the restrictions contained in Section 9(1)(c) of the Tamil Nadu Societies Registration Act, 1975.

37. In my view, there is no merits in the present writ petition. I do not find any reasons to interfere with the impugned order passed by the second respondent although the impugned order is bereft of any reasoning. Therefore, this writ petition is liable to be dismissed. It is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.01.2023

Index : Yes/No
Internet : Yes/No
Speaking : Non-speaking order
kkd

14/15



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C.SARAVANAN,J.

kkd

To

1. The Inspector General of Registration,
Santhome High Road,
Chennai 600 004.
- 2.The District Registrar of Societies (In-charge)
District Registrar Office,
Krishnampalayam,
Erode 638 003.
- 3.Erode District Cricket Association,
Rep.by its Secretary,
T.Mohammed Khaleel

Pre-deliver Order in
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11.01.2023