



WP No.10653 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No.10653 of 2023
and
WMP. Nos. 10580 and 10581 of 2023

1. T. Sundar Rajan
2. Bhargavi Sundar Rajan

.. Petitioners

Versus

1. Bar Council of Tamil Nadu & Puducherry
Represented by its Secretary
High Court Campus
Chennai 600 104

2. K. Jayalakshmi
3. R. Susheela

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the first respondent in its Resolution No.67 of 2023 dated 03.02.2023 and to quash the same along with its referring of proceedings before the Disciplinary Committee IX in D.C.C.No.62 of 2023.

For Petitioner : Mr. A.L. Somyaji, Senior Advocate
for Mr. S. Gunaseelan
For R1 : Mr. M.R. Jothimanian



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ORDER

(Order of the Court was made by R. MAHADEVAN, J)

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The prayer made in this writ petition is to issue a Writ of Certiorari, calling for the records of the first respondent in its Resolution No.67 of 2023 dated 03.02.2023 and to quash the same along with its referring of proceedings before the Disciplinary Committee IX in D.C.C.No.62 of 2023.

2. According to the petitioners, they are practicing as Advocates before the various Courts and Tribunals in the State, including this Court. It is stated that during 2015, the petitioners were engaged by Mr. V. Palanivel and V. Soundararajan to appear on their behalf in CRP Nos. 1878 and 1879 of 2015 filed by Mr. Ravi and others. Accordingly, the petitioners appeared for the aforesaid Mr. V. Palanivel and another, who are respondents in CRP Nos. 1878 and 1879 of 2015. This Court, after hearing both sides, dismissed the Civil Revision Petitions on 30.10.2015. However, in the year 2017, the aforesaid Palanivel and Soundararajan approached the petitioners once again to file Civil Revision Petitions as against the order passed in I.A. No. 21 of 2017 in CMA No. 15 of 2017 and I.A. No. 214 of 2017 in O.S. No. 259 of 2014. It was represented by Mr. Palanivel and Soundararajan that Civil Revision Petitions have to be filed for and on behalf of their sisters as well,



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who are the respondents 2 and 3 in this writ petition. According to the petitioners, there was no conflict of interest between the siblings in filing the Civil Revision Petitions before this Court and therefore, after duly obtaining the Vakalat signed by the respondents 2 and 3, which was identified by the said Palanivel and Soundarrajan, the petitioners have filed the Civil Revision Petitions before this Court, which was numbered as CRP Nos. 2564 and 2565 of 2017. It appears that during May 2022, the said Palanivel and Soundararajan have sought for a release deed from the respondents 2 and 3 herein based on family arrangement. It was further disclosed to the petitioners that the two sisters of the respondents 2 and 3 have executed release deeds in favour of Palanivel and Soundararajan thereby releasing their share of the family property after obtaining monetary consideration thereof. However, the respondents 2 and 3 seem to have been reluctant and unwilling to execute any such settlement deed in favour of Palanivel and Soundararajan, which resulted in a dispute. In connection with such dispute, the respondents 2 and 3 have given a letter to the petitioners stating that the said Palanivel and Soundararajan have forged their signature in the Vakalath in CRP Nos. 2564 and 2565 of 2017 and they are not willing to be represented by the petitioners in those cases any longer. Immediately, the petitioners have also given change of vakalath, along with the voluminous typed set of papers and other



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connected documents, the receipt of which was also acknowledged by the respondents 2 and 3. Thereafter, a memo dated 18.10.2022 was filed by the respondents 2 and 3 herein in CRP Nos. 2564 and 2565 of 2017 stating that their brothers have forged their signatures in the vakalath and prayed for taking action against them. Simultaneously, the respondents 2 and 3 have also given a complaint to the Registrar General as well as Registrar Judicial of this Court stating that their brothers have forged their signatures in the Vakalath filed in CRP Nos. 2564 and 2565 of 2017 enclosing a forensic science report obtained from Truth Lab Forensic Services to substantiate their plea.

3. The petitioners further stated that CRP Nos. 2564 and 2565 of 2017 were listed before this Court on 02.11.2022, on which date, the respondents 2 and 3 appeared before this Court through their new counsel by name Mr. P. Satheesh Kumar. On that day, the respondents 2 and 3, through their new counsel, approached the petitioners and asked them to ponder over their clients Palanivel and Soundararajan to effect settlement of their shares in the disputed property. The petitioners replied that the respondents 2 and 3 could directly speak to their brothers and as legal practitioners, they cannot accede to putforth their demands to their clients. At this stage, the counsel for the respondents 2 and 3 threatened the petitioners by stating that if their clients



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Palanivel and Soundararajan did not settle the share, as demanded by the respondents 2 and 3, then they would give a false complaint against the petitioners before the Bar Council. Unmindful of such threat, the petitioners argued the Civil Revision Petitions before this Court when it was listed on 16.11.2022. On that day, the respondents 2 and 3 and their other sisters were also present before this Court and the counsel for the respondents 2 and 3 also advanced his arguments attributing forgery on the part of the petitioners, who are the erstwhile counsels, in filing the vakalath on behalf of the respondents 2 and 3. On the contrary, the other two sisters namely Selvarani and Vijayalakshmi, through their counsel, supported their brothers Palanivel and Soundararajan. This Court, after hearing the argument of the counsel for all the parties, disposed of the Civil Revision Petitions on 16.11.2022.

4. It is also stated that after disposal of the Civil Revision Petitions, the respondents 2 and 3 have given a complaint dated 03.11.2022 to the first respondent alleging professional misconduct on the part of the petitioners. On the basis of such complaint, a notice dated 05.12.2022 was issued by the first respondent and on receipt of the same, the petitioners have also submitted their detailed reply on 19.12.2022. However, without considering the reply dated 19.12.2022 in the proper perspective, the first respondent, in the impugned



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communication dated 06.03.2023, has stated that a prima facie case has been made out in the complaint dated 03.11.2022 of the respondents 2 and 3 and therefore, the first respondent, through a resolution dated 03.02.2023, referred the matter to the disciplinary committee for further enquiry. Aggrieved by the same, the petitioners have come forward with this writ petition.

5. Mr. Al. Somayaji, learned Senior counsel for the petitioners would vehemently contend that the petitioners did not indulge in any professional misconduct as alleged by the complainants. The complaint given by the respondents 2 and 3 is false and motivated. The respondents 2 and 3 have in fact filed a memo before this Court complaining that their brothers V. Palanivel and V. Soundarrajan have forged their signature in the Vakalat and prayed for taking action against their brothers. When it was complained by the respondents 2 and 3 about the forgery of their signatures, the petitioners have given "change of Vakalath" along with the voluminous documentary evidence and it was also acknowledged by the respondents 2 and 3. Thereafter, the respondents 2 and 3 have engaged another advocate and contested the Civil Revision Petitions before this Court. While so, the question of committing any professional misconduct on the part of the petitioners will not arise. If a complaint of this nature is entertained, then it



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will be unsafe for any legal practitioner to conduct cases legitimately. When the petitioners have submitted their response to the complaint, the first respondent, without any basis, has concluded that a *prima facie* case is made out against the petitioners and referred the matter to the disciplinary committee for further enquiry and it is not warranted. The learned Senior counsel for the petitioners, therefore, prayed for allowing this writ petition.

6. On the other hand, the learned counsel appearing for the first respondent submitted that on the basis of the complaint given by the respondents 2 and 3, the matter has already been referred to the Disciplinary Committee for enquiry on 08.04.2023. When the petitioners have already subjected themselves to the proceedings initiated by the first respondent, the prayer sought for in this writ petition need not be entertained. Stating so, the learned counsel prayed for reasonable time to complete the enquiry and pass orders by the disciplinary committee.

7. In reply, the learned senior counsel for the petitioners submitted that the petitioners may be granted liberty to raise all the grounds before the disciplinary committee and also to produce material documents in support of their defence.



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8. Considering the facts and circumstances, this writ petition stands disposed of granting such liberty as prayed for. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D., J.]

[M.S.Q., J.]

av/rsh

06.04.2023

Index : Yes / No

Internet : Yes / No

To

1. The Chairman,
Bar Council of Tamilnadu and Puducherry,
High Court Buildings,
Chennai - 600 104.

2. The Secretary
Bar Council of Tamilnadu and Puducherry
High Court Buildings, Chennai - 600 104



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