



O.S.A.No.122 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM :

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

**Original Side Appeal No.122 of 2023
and
CMP.No.15261 of 2023**

1. The Research Foundation for Jainology,
Represented by its General Secretary,
Mr.Krishna Chand Chordia,
No 18, Ramanuja Iyer Street,
Sowcarpet, Chennai - 600 001.
2. Krishna Chand Chordia,
General Secretary,
The Research Foundation for Jainology,
No.18, Ramanuja Iyer Street,
Sowcarpet, Chennai - 600 001.
3. The School Management Committee,
The Jain Vidyashram,
No.150, Othawaada Street,
Puzhal, Chennai - 600 066.
4. S.Krishna Chand Chordia,
alleged General Secretary,
Research Foundation for Jainology,
No.18, Ramanujar Iyer Street,
Sowcarpet, Chennai.

.. Appellants



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Versus

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1. Raj Chordia @ K.Manohar Raajh Chorida,
2. Esaani Chordia
3. The Jain Vidyashram,
A Unit of the Research Foundation for Jainology,
Represented by its Principal,
Having its head office at No.18,
Ramanuja Iyer Street,
Sowcarpet, Chennai - 600 001.
4. Mr.Jaya Prakash Lalwani,
Executive Member,
The Research Foundation for Jainology,
No.18, Ramanuja Iyer Street,
Sowcarpet, Chennai - 600 001.
5. The Karur Vysa Bank,
Red Hills Branch,
Represented by its Branch Manager,
No.5/2, Sri Subashini Complex,
Vallalar Street, Kamaraj Nagar,
Red Hills, Chennai - 600 052.
6. Shanthilal Kothari,
alleged President,
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.
7. Hans Raj M.Mutha,
Alleged Vice President
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.



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8. Shanti Lal Jain,
alleged Vice President,
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.
9. P.Mitha Lal Jain,
Alleged Vice President,
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.
10. J.Mohan Lal Chordia,
Alleged Vice President,
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.
11. Goutham Chand Mutha,
Alleged Vice President,
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.
12. Nemi Chand Kothari,
Alleged Secretary,
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.
13. Amrit Lal N.Daga,
Alleged Treasurer,
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.



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14. Badal Chand Chhajer,
Alleged Joint Treasurer,
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.
15. P.C.Chopra,
Alleged Joint Treasurer,
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.
16. Mahendra Kumar Jain,
Alleged Joint Secretary,
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.
17. Mahendra Chand Chordia,
Alleged Joint Secretary,
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.
18. Sampath Kumar Bagmar,
Alleged Joint Secretary,
Research Foundation for Jainology,
No.18, Ramanujar Street,
Sowcarpet, Chennai.

.. Respondents

Original Side Appeal filed under Order 36 Rule 11 of the Original Side Rules read with clause 15 of the Letters Patent to set aside the fair and decreetal order dated 05.06.2023 as modified by order dated 20.06.2023 in A.No.1816 of 2020 in C.S.No.199 of 2020.



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For Appellants
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: Mr.M.S.Krishnan, Senior Counsel
for M/s. T.S.Gopalan and Co.

For R1 & R2

: Mrs.Hema Sampath, Senior Advocate
for Mr.P.Navaneetha Krishnan

For R8, R13 & R18

: Mr.Jayesh Dolia
for M/s.Aiyar and Dolia

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

The appellants are the defendants 1, 2, 4 and 13 in the suit in Civil Suit No. 199 of 2020. The suit was filed by the respondents 1 and 2 herein, to declare the alleged annual general body meeting held on 20.10.2019 for the first defendant society and the alleged election of the defendants 2 and 7 to 20 as the Executive Committee Members as illegal and void and for other reliefs. As per the averments made in the plaint, the plaintiffs 1 and 2 are the husband and wife in relationship and the second defendant is the father of the first plaintiff. The first defendant is the society registered under the Tamil Nadu Societies Registration Act under Registration No. 155 of 1982, with an object to impart knowledge to children, particularly from Jain community. As per the bye laws



of the first defendant society, there are four kinds of members to be elected and they are patron member, hereditary member, like member and ordinary member.

Further, as per clause 15 of the bye laws, an executive committee comprising 63 members have to be elected by four electoral colleges mentioned therein and after the election, President shall be elected in the Annual General Body Meeting from among the elected members of the Patron Members. As per clause 16, the General Body will be the supreme body of the first defendant society. However, contrary to the bye laws of the first defendant society, the second defendant indulges in certain acts to make it appear as if the first defendant society is a proprietorship concern. The second defendant did not take steps to conduct the Executive Committee Meeting or the Annual General Body meeting as per the bye laws. While so, the second defendant issued a notice dated 25.09.2019 as if Annual General Meeting would be scheduled on 20.10.2019 for scrutinising the account and debating on the annual report. According to the plaintiffs, no such notice dated 25.09.2019 was sent to the members for the meeting scheduled on 20.10.2019 nor such meeting was held on that date. There was no election taking place and no elected Executive Committee functioning for the first defendant society. Notwithstanding the illegal election said to have been taken



place on 20.10.2019, the second defendant circulated a resolution dated 09.03.2020 stopping the services of the plaintiffs from the affairs of the third defendant school with immediate effect, besides restraining entry to the plaintiffs, their daughters and in-laws into the school campus by way of prohibitory orders. Furthermore, a copy of the resolution dated 09.03.2020 was sent to the jurisdictional police to take action against the plaintiffs and their family members if they enter into the school premises and create ruckus. In the above circumstances, the plaintiffs have filed the suit.

2. Pending suit, the plaintiffs preferred the following applications:

(i)OA.No.779 of 2022 praying to pass ad interim injunction restraining the defendants 2, 26 to 35 from in any manner claiming, acting or discharging any functions or duties with powers as School Management Committee of the 4th defendant pursuant to the alleged selection dated 24.03.2021 pending disposal of the above suit;

(ii)OA.No.780 of 2022 praying to pass ad interim injunction restraining the defendants 2, 7, 8, 9,10, 13 to 16, 18 to 25 from in any manner claiming, acting or discharging any functions or duties or powers as Executive Committee



Members of the 1st defendant society pursuant to the alleged selection dated 24.03.2021 or on any other date, pending disposal of the suit;

(iii)OA No. 355 of 2020 praying to grant an interim injunction restraining the defendants 2, 7 to 20 from in any manner acting as Office Bearers/Members of the Executive Committee of the first defendant society;

(iv)O.A. No. 356 of 2020 praying to grant an order of interim injunction restraining the fifth defendant from in any manner exercising any financial powers with regard to the third defendant school pursuant to the alleged resolution dated 27.02.2020 passed by the second defendant;

(v)O.A. No. 357 of 2020 praying to grant an interim injunction restraining the defendants 2, 7 to 20 from interfering with the rights of the plaintiffs in continuing to act as Members of the fourth defendant school management committee of the third defendant, pending disposal of the suit; and

(vi) Application No. 1816 of 2020 praying to appoint an advocate commissioner to forthwith conduct election for the executive committee and office bearers of the first defendant society and the third defendant school, pending disposal of the suit.



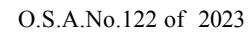
3. After hearing both sides, the learned Judge passed the following order in the aforesaid original applications, on 05.06.2023:

".....

10. From a reading of the provision of the byelaw, particularly, Clause 15 of the byelaw of the first respondent Society and the notice issued for the AGM on 17.02.2021 and the proceedings of AGM dated 21.03.2021, I am of the considered opinion that all seems to be not well in the Society that is being run by the members of the public and also the fees collected from the students studying in the third respondent's School. The reason I come to such a conclusion is:

(a) Clause 15 of the byelaw provides for procedure for election. Nominations were to reach the General Secretary at least one week prior to the date of holding the Annual General Body Meeting. A time for withdrawal of nominations should also be provided and only thereafter, the election should be held. In the present case, there is no schedule of elections fixed either under the notice of Annual General Body Meeting or in the proceedings of the Annual General Body Meeting. It could be seen that even though the members of a particular category were entitled to file nominations, there has been a lesser number of valid nominations in each of the categories of membership, this creates a doubt in the minds of this Court as to whether notices have been served upon all the members. When a query was raised by this Court to the learned counsel appearing for the second respondent who is also the General Secretary of the first respondent Society, it was informed to this Court that the same had been dispatched by ordinary post. May be that notice of the Annual General Body Meeting could be sent by ordinary post. From the Extraordinary General Body Meeting held by certain groups, it could be seen that a decision has been taken by 79 members as against the second respondent from functioning as the General Secretary of the first respondent Society and the Correspondent of the third respondent's School. If that be so, I am of the opinion that there would have been more candidates who would have contested the elections. Therefore, I am of the view that notices have been sent only to the selected persons or only the selected person have been called to attend the Annual General Body Meeting.

(b) From the provisions of the byelaw it could be seen that the period of the elected Executive Committee shall be for a period of three years. Admittedly, the election had taken place in an earlier Annual General



12. In view of the appointment of the Interim Administrator to administer the first respondent Society, there shall also be an order of injunction is prayed for in the application. In fine, all the applications are allowed."

Subsequently, by order dated 20.06.2023, paragraph 11 of the aforesaid order was modified to the effect that the senior advocate Mr.Ravi, was appointed as an Interim Administrator of the entire administration of the first defendant / Society including the administration of the 3rd defendant / school; and he was requested to conduct election to the 1st defendant / Society within a period of six months. It was also noted that the learned Administrator shall be entitled to a remuneration of Rs.1,00,000/- per month.



4. Aggrieved by the aforesaid orders passed by the learned Judge, this appeal came to be filed by the defendants 1, 2, 4 and 13 in the suit.

5. The learned Senior counsel appearing for the appellants, taking exception to the order passed by the learned Judge in appointing an interim administrator, would submit that the second plaintiff is ceased to be a member of the first defendant society and therefore, the suit itself is not maintainable. He also submitted that the first plaintiff was removed from the membership of the appellant society on the basis of the resolution dated 20.06.2022 passed in the Extraordinary General Body meeting of the society and hence, he has no *locus standi* to file the suit and seek for interim relief. Except the plaintiffs, none of the 240 members of the first defendant society has questioned the election as well as the resolutions passed by the second defendant as Chairman of the first defendant society. In any event, entrusting the entire powers and functions of the society as well as the school hitherto carried out by a 11 member committee to the Interim Administrator is uncalled for and the same requires interference.



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6. Per contra, the learned senior advocate appearing for the plaintiffs/respondents 1 and 2 submits that the learned Judge has found that there was infraction of the procedures as contemplated under the bye-laws of the first defendant society in convening the election as well as in passing various resolutions. Therefore, the learned Judge thought it fit to appoint an advocate commissioner to manage the affairs of the first defendant society as well as school and the same cannot be found fault with.

7. Heard both sides and perusal of the materials available on record. At the outset, it must be noted that there has been breach of bye-laws of the first defendant society by the second defendant in convening the election to the society as well as in passing various resolutions, including the one preventing the plaintiffs from entering into the society, according to the plaintiffs. Therefore, the learned Judge, as an interim measure, appointed Mr. S. Ravi, Senior Advocate practicing in this Court as an Interim Administrator to look into the affairs of the society and school. The said order of the learned Judge was challenged in this appeal by the defendants 1, 2, 4 and 13 in the suit. However,



during the course of argument, the learned Senior counsel appearing for the appellants expressed to this court that the role of the Interim Administrator to take over the entire functioning of the first defendant society and school, would cause serious prejudice to the elected office bearers and therefore, the same be modified, subject to restriction that the plaintiffs cannot be participated in the affairs of the society, as they were already expelled from the same. Refuting the said contention, the learned senior counsel for the respondents / plaintiffs submitted that the learned Judge, while appointing the interim administrator, granted ad interim injunction in all the applications including the removal of the plaintiffs from the membership of the society and the said order continues even today and hence, the plaintiffs can very well participate in the affairs of the society as well as school.

8. This court is of the view that the issues involved herein viz., validity of the election conducted, resolution passed, elected members of the society, etc., can be determined only after full fledged trial in the suit. Therefore, without expressing any opinion on the merits of the case, we leave it open to the parties to agitate all the issues before the learned Judge, with whom the suit is pending.



However, considering the facts and circumstances of the case, and also as agreed by both sides, this court, in the interests of the society as well as school, is inclined to modify the order of the learned Judge, in the following terms, as an interim measure:

i. Mr. S. Ravi, Senior Advocate, appointed as Interim Administrator by the learned Judge, shall supervise and monitor the affairs of the first defendant society as well as school, instead of taking control of the entire administration of the same.

ii. The Executive committee / School Management Committee, including the plaintiffs, shall manage the affairs of the society as well as school and submit periodical reports to the Interim Administrator. In the event of any mismanagement or irregularity by any of the parties, it is open to the Interim Administrator to approach the learned Judge for appropriate orders.

iii. The election to the Executive Committee is directed to be completed by the Interim Administrator, within a period of 90 days from the date of receipt of a copy of this order.

iv. Except the above, the order of the learned Judge remains unaltered.



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9. Accordingly, this original side appeal stands disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

(R.M.D.,J.) (M.S.Q.,J.)

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Internet: Yes

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