



W.P.Nos. 31069 & 34495 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.02.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.Nos. 31069 & 34495 of 2022

and

W.M.P.Nos. 33670 & 596 of 2022

Dr.S.Rajan
President, Pasumai Vivasayigal
neertru pasana sangam
No.3/107 Manathy and Post
Thiruchengode Taluk
Namakkal District.

... Petitioner in
both Writ Petitions

Vs

1.The Revenue Divisional Officer
Thiruchengode Division
Thiruchengode, Namakkal District.

... First respondent in
W.P.Nos. 31069 & 34495 of 2022

2.The Inspector of Police
Velagoundan Patty Police Station
Thiruchengode Taluk
Namakkal District.

... Second Respondent
W.P.No. 31069 of 2022

3. D. Krishnamoorthy

R3 is impleaded by order dated
08.02.2023 in W.M.P.Nos. 33670
& 596 of 2022 by CVKJ



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Prayer in W.P.No. 31069 of 2022: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus directing the 1st respondent to give permission to the petitioner's society to conduct the usual annual General Body meeting and executive committee meeting in society office or any other place on the basis of the petitioner's representation 19.09.2022.

Prayer in W.P.No. 34495 of 2022:: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus directing the respondent to permit the petitioner to operate the society current Account No. 6926005073 which is in Indian Bank Velagudanpatty Branch Tiruvelangadu Taluk Namakkal District on the basis of the petitioner's representation dated 25.04.22.

For the Petitioner : Mr.A.E.Kalaiselvan

For the Respondents : Mr.T.Seenivasan,
Special Government Pleader

COMMON ORDER

The parties at lis are the same. Arguments overlapped. It is only prudent that a common order is passed though the reliefs sought are slightly different but however relate to the functioning of the Pasumai Vivasayigal Neertru Pasana Sangam, at Thiruchengode in Namakkal District.

2. The writ petitioner in both the writ petitions, claims to be the President of the Sangam. The petitioner who has filed writ miscellaneous petitions, D. Krishnamoorthy claims to be the Secretary of the Sangam. There is also one more necessary individual and he is



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the Treasurer of the Sangam. It is the case of the petitioner that the Secretary and the Treasurer have been removed from primary membership of the Sangam.

3. Questioning that particular order, the Secretary and the treasurer have filed OS.No. 31 of 2022 before the Additional District Court at Namakkal. The suit is still pending. The defendants in the suit are the Sangam represented by the petitioner herein, termed as the temporary President and the petitioner in his individual capacity, the District Registrar for Societies, Indian Bank at Velagoundan Patti, and the District Collector, Namakkal.

4. The relief sought in that particular suit filed by the Secretary and the Treasurer are, to question the Form 7 which had been given by the petitioner herein wherein their names have been omitted and also, for a permanent injunction to protect their rights to participate in the functioning of the Sangam as Treasurer and Secretary and also relating to the accounts specifically with respect to the bank account in Indian Bank. It is stated that the suit is pending and the petitioner herein had also filed a joined issues in the said suit.



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5. W.P.No. 31069 of 2022 had been filed against the Revenue Divisional Officer at Thiruchengode and also against the Inspector of Police, Velagoundan Patti Police Station. The grievance raised is that, the second respondent/Inspector of Police had given a report that the situation therein requires imposition of proceedings under Section 107 of the Code of Criminal Procedure. Effectively, that has prevented the General Body Meeting from being convened. The onus is now shifted to the first respondent, Revenue Divisional Officer to convene the General Body Meeting.

6. In the counter affidavit filed before this Court, the Revenue Divisional Officer has shifted that responsibility to the Registrar of Societies. It is therefore unclear as who is to conduct the General Body Meeting but one thing is clear if it so convened, there would be law and order problem.

7. I am informed that a Peace Committee had also been convened and both the petitioner and the petitioner in the impleading application have also participated and signed in the proceedings thereto.



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8. Be that as it may, the petitioner also has another grievance and to express that he has filed W.P.No. 34495 of 2022. That writ relates to the Bank Account in Indian Bank. He claims that there must be some permission granted to operate the said account. But the Indian Bank is also a party defendant in the aforementioned suit. The petitioner is also a defendant. Nothing prevents the petitioner from approaching the said Court and seeking necessary permission. Neither the petitioner nor the petitioner in the impleading application, seek relief before the Additional District Court, Namakkal and simultaneously come to this Court seeking parallel or similar reliefs. They will have to go before one forum. Even if the petitioner herein is a defendant, he can seek necessary reliefs in the written statement by taking recourse to the provisions under the Code of Civil Procedure. Let me refrain myself from passing orders in that regard but relegate that particular privilege to the Additional District Judge, Namakkal, wherein the aforementioned suit is now pending.

9. The issue of conducting the General Body Meeting can be done only when the members of the society put their minds together and adhere to some rules, particularly to maintain cordial and



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harmonious relationship otherwise, convening a meeting would only lead to violence. The second respondent had thought it necessary to pass orders under Section 107, Cr.P.C. That order to my knowledge has not been questioned in any manner whatsoever. That order remains. The petitioner will have to, if he deems necessary, take up that order in the hierarchy of officials and seek to re-examine that particular order.

10. So far as operation of the bank account is concerned, the learned counsel states that when the bank account was opened, the President and the Secretary and also the Treasurer had given their names as persons authorized to sign any negotiable instrument. The bank officials will have to necessarily go according to what has been declared by their customers. If any modification is required then, there must be meeting of mind among the petitioner and the Secretary.

11. One option which is given is that the petitioner herein and the petitioner in impleading application can both sign the instruments and that be verified by the Treasurer. This suggestion had been given by the learned Senior counsel on behalf of the writ miscellaneous



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petitioner, but had been vehemently disputed and contested by the learned counsel for the petitioner herein. He claims that the petitioner in the impleading application is not even a member and had been removed as a member and therefore, no direction can be given to the bank officials with respect to the operation of the account. If the bank officials require clarifications they may approach the particular court where the suit is pending and seek necessary relief in that particular court.

12. Both the parties are also at liberty to file application and seek necessary relief for conducting General Body Meeting and for operating Bank Account. The entire lis is under the control and jurisdiction of the Additional District Judge and therefore this court cannot pass any order whatsoever.

13. Since, references had been made to the writ miscellaneous petitions, those two applications are allowed and the petitioners therein are impleaded as further respondents in the two writ petitions but it does not mean that their status as Secretaries have been accepted by this Court. That status will have to be examined and



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decided only by the Court where the suit is now pending. They are only added in their individual capacity and not as Secretaries and not as office bearers of the Sangam, but only as individuals. The Registry may carry out necessary amendment in the cause title reflecting D. Krishnamoorthy as a further respondent in the writ petitions. To repeat, merely impleading him will not give the said Krishnamoorthy any status either as Secretary or as member which issue will have to be decide only in the suit.

14. Before the order copy is issued, necessary amendment should be made by the Registry. Both the writ petitions stands disposed of with a direction to approach the Trial Court for necessary relief. No costs.

08.02.2023

Index: Yes/no
mrn

Note: Issue order copy on 13.02.2023



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To

WEB COPY

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Thiruchengode Division
Thiruchengode, Namakkal District.

2.The Inspector of Police
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C.V.KARTHIKEYAN, J.
(mrn)

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