



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.03.2023

PRONOUNCED ON : 28.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Application Nos.433 to 436 of 2023
in C.S.No.393 of 2012

Application No.433 of 2023

1.Anita Thomas

2.Deepthi Sukumar

...

Applicants /
Proposed Defendants

versus

1.Anne Gonsalves

2.Cynthia Duleep Singh

...

Respondents 1 & 2 /
Plaintiffs

3.Young Womens' Christian Association of Madras,
Rep. by its General Secretary,
1086, Poonamallee High Road,
Chennai - 600084.

4.The Registrar of Societies,
Office of the Registrar,
George Town,
Chennai - 600 001.

...

Respondents 3 & 4 /
Defendants

PRAYER : Application filed under Order XIV Rule 8 of the OS Rules read with Order I Rule 10(2) of Code of Civil Procedure, 1908, praying to permit the applicants / proposed defendants to be impleaded as defendants in C.S.No.393 of 2012.



Application No.434 of 2023

1.Ruth Bennet
2.Christina Sharmila Moses ... Applicants
/ Proposed Defendants

versus

1.Anne Gonsalves
2.Cynthia Duleep Singh ... Respondents 1 & 2 /
Plaintiffs

3.Young Womens' Christian Association of Madras,
Rep. by its General Secretary,
1086, Poonamallee High Road,
Chennai - 600084.

4.The Registrar of Societies,
Office of the Registrar,
George Town,
Chennai - 600 001. ... Respondents 3 & 4 /
Defendants

PRAYER : Application filed under Order XIV Rule 8 of the OS Rules read with Order I Rule 10(2) of Code of Civil Procedure, 1908, praying to permit the applicants / proposed defendants to be impleaded as defendants in C.S.No.393 of 2012.

Application No.435 of 2023

1.Rani Rajkumar
2.Prema Lamech
3.Susan Koshy ... Applicants
/ Proposed Defendants

versus

1.Anne Gonsalves
2.Cynthia Duleep Singh ... Respondents 1 & 2 /
Plaintiffs



3. Young Womens' Christian Association of Madras,
Rep. by its General Secretary,
1086, Poonamallee High Road,
Chennai - 600084.

4. The Registrar of Societies,
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Chennai - 600 001.

...

Respondents 3 & 4 /
Defendants

PRAYER : Application filed under Order XIV Rule 8 of the OS Rules read with Order I Rule 10(2) of Code of Civil Procedure, 1908, praying to permit the applicants / proposed defendants to be impleaded as defendants in C.S.No.393 of 2012.

Application No.436 of 2023

Young Womans' Christian Association of India,
Represented by its National General Secretary,
Rio Kalpana David,
D/o.Charles Loveitt Singh,
10, Sansad Marg,
New Delhi-110 001.

...

Applicant / Third Party

versus

1. Anne Gonsalves
2. Cynthia Duleep Singh

...

Respondents 1 & 2 /
Plaintiffs

3. Young Womens' Christian Association of Madras,
Rep. by its General Secretary,
1086, Poonamallee High Road,
Chennai - 600084.



4.The Registrar of Societies,
Office of the Registrar,
George Town,
Chennai - 600 001.

...

Respondents 3 & 4 /
Defendants

PRAYER : Application filed under Order XIV Rule 8 of the OS Rules read with Order I Rule 10(2) of Code of Civil Procedure, 1908, praying to implead the applicant as the 3rd defendant to the above suit in C.S.No.393 of 2012.

For Applicants [in A.No.433/2023]	: Mr.A.R.Karunakaran
For Applicants [in A.No.434/2023]	: Mr.R.Venkatraman
For Applicants [in A.No.435/2023]	: Mr.G.Rajkumar
For Applicant [in A.No.436/2023]	: M/s.Thomas T.Jacob
For Respondent Nos.1 & 2 [in all Applications]	: Mr.M.K.Kabir Senior Counsel for M/s.A.Dhiraviyanathan
For Respondent No.3 [in all Applications]	: Mr.V.Raghavachari Senior Advocate for M/s.V.Srimathi

COMMON ORDER

The suit in C.S.No.393 of 2012 has been filed by the respondents 1 and 2 / plaintiffs for seeking a scheme decree in respect of the first defendant's society / Younger Women's Christian Association of Madras [hereinafter referred to as 'YWCA']. The scheme was sought to administer



the day-to-day activities of the society and the management thereof in accordance to the letter and spirit of the constitution after adhering the bye-laws in the matter of electing the office bearers, board members and the members of the nominating committee and other reliefs.

2. Heard the learned counsels for the applicants / proposed defendants and the respondents 1 and 2 / plaintiffs and third respondent / 1st defendant and perused the materials available on record.

3. The applicants [Anita Thomas and Deepthi Sukumar] in Application No.433 of 2023 have stated that as per the order of this Court dated 28.10.2022, a compromise was arrived at between the plaintiffs and the first defendant's society subject to the approval by its members at an Extraordinary General Body Meeting [hereinafter referred to as 'EGM'] to be held on 26.11.2022; Article XVI of the Constitution of the first defendant's society itself provides the manner in which certain provisions can be amended; as per the provisions of the Constitution, such amendment can be brought only by convening an Annual General Body Meeting [hereinafter



referred to as 'AGM'] after the proposed amendment being circulated 10 months prior to the meeting.

3.1. The present management's tenure expired during September 2022; there are several vacancies in the present Board of Management due to the resignations of board members apart from the illegal dismissal of a duly elected board member; because of that the board of management does not have the required quorum in order to take any decisions including the mediation if any, by calling for the general meetings; these vacancies arose due to high handedness of some of the board members; the applicants have reasons to believe that the present management is amenable to the demands of the plaintiffs.

3.2. An Extraordinary General Body Meeting (EGM) was called on 26.11.2022 through notice dated 03.11.2022; despite requests made for tabulating draft of the amendments made to the constitution, draft was not tabulated; there are certain amendments which are made to disassociate the first defendant's society from the National Body, apart from usurping the



powers of the general body and giving the powers to the board of management is arbitrary and ultra vires of the first defendant; the members who are inducted after 31.03.2022 were not issued notice or informed about EGM; some of the members were denied admission to EGM based on some illegal classification.

3.3. On 26.11.2022, when EGM was held, the management aided by the plaintiffs and other members refused to answer questions raised by the applicants and other members; the National Body has not approved the proposed constitution as mandated; the general body was informed that there could be no discussion about the request of the constitution as the same has been handed over to the Court; the upper age limit for the board members and to change the name of the 'Nominating Committee' as the 'Election Committee' were the two subjects permitted for discussion; and even these points should be discussed only in the AGM.

3.4. According to the first defendant's board announcement, the total number of persons present and voted was 68 of the electoral members;



27 members (40%) present had voted against the resolution seeking to approve the amendments to the Constitution and Articles of Association and bye-laws of the first defendant; even though Article XVI contemplated 3/4th affirmative vote to amend the Constitution, the board declared the resolutions as passed by a simple majority of 46 which includes associate members, who do not have any voting rights; the counting was done in a hurried manner and the members who disapproved the proposed amendments were not counted.

3.5. The board summarily called upon the meeting and declared that the resolutions were passed even though 3/4th affirmative vote was not secured; the board announced that 46 members voted for the amendments, 33 aggrieved persons including 6 members, who were denied admissions into the EGM have expressed their disapproval; hence the numbers announced by the board is not correct and the proposals were not passed with 3/4th majority; a written note with reasons for disapproval was handed over to the EGM; some significant changes made to the existing constitution were not explained properly.



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3.6. The Constitution of the first defendant's society has been amended lastly in the year 2012; Articles for the provision and the process of Constitution amendments which had been incorporated in the Constitution since 2005 has been removed without any explanation; the provision for supersession by the National Body has also been removed without any explanation; the proposed Constitution has taken away many powers that the general body had in decision making and the powers of National Body to supersede the 1st defendant during certain occasions; since the amendments were not in a proper manner, the applicants had filed this application to implead themselves as proposed defendants to the suit.

4. The applicants [Ruth Bennet and Christina Sharmila Moses] in Application No.434 of 2023 and applicants [Rani Rajkumar, Prema Lamech and Susan Koshy] in Application No.435 of 2023 have filed these applications to implead themselves as proposed defendants on the same grounds as stated by the applicants in Application No.433 of 2023.

5. The applicant in Application No.436 of 2023 is the Young Womans' Christian Association of India, represented by its National General



Secretary; it is submitted that the applicant is the parent body of the first defendant; as per Article IV of the first defendant's Constitution it is affiliated to YWCA of India, which is part of the World YWCA; the Constitution of the first defendant would state that the first defendant's society shall pay annual share of the expenses of YWCA of India in accordance with the plan adopted at the National Convention.

5.1. The Constitution had given powers to the National Body to supersede the board of the first defendant; in a suit filed by the plaintiffs seeking a scheme decree, the first defendant's society alone was contesting; during the pendency of the suit, the board of management had changed many times after every election to the board; the present board of management of the first defendant's society consists of members, who are in the same faction as the plaintiffs; both the plaintiffs and the first defendant's board of management had agreed to resolve the dispute between themselves through mediation and a retired Judge, Hon'ble Mr.Justice G.M.Akbar Ali was appointed as a Mediator.



5.2. The Hon'ble Mediator had suggested some changes in the Constitution and the bye-laws of the first defendant based on the inputs given by both the plaintiffs and the first defendant's board of management, the changes suggested by the Hon'ble Mediator to the bye-laws were accepted by the plaintiffs and the first defendant's board of management; however it was not been brought to the notice of the Hon'ble Mediator or to this Court that the proposed amendments in the Constitution and the bye-laws can be done only in accordance with Article XVII of the Constitution of the first defendant; the said Article clearly lays down the process by which the Constitution and the bye-laws of the first defendant can be amended; in their agenda to push certain amendments to suit the *mala fide* interest of the plaintiffs and the first defendant's board of management it was informed to the Court that on 22.10.2022 a compromise has been arrived at between the parties and that the proposed amendment is likely to be passed, in an EGM proposed to be held on 26.11.2022; the said submissions were recorded by this Court in its order dated 22.10.2022 and the matter adjourned to 05.12.2022.



5.3. The modified bye-laws went beyond the prayer in the suit in C.S.No.393 of 2012 and as a result, major changes have been made in the bye-laws of the first defendant; such changes would not benefit the society but only benefit certain sections within the first defendant's society and create distance from the entire YWCA movement; the resultant changes cannot be accepted in the present form, as there is a model bye-law prescribed for all affiliates of the YWCA of India and that has been adopted by affiliates who wished to continue as affiliates.

5.4. The National Board of YWCA of India pointed out these abnormalities in the proposed amendment in the Constitution and the bye-laws of the first defendant and requested the board of management of the first defendant to adhere to its directives of the National Board and rectify the abnormalities and not to pass the proposed amendment at the EGM on 26.11.2022 without the approval of the National Board which is a pre-requisite for any amendment.

5.5. The first defendant's board of management did not accept the advice of the National Board and they stood in complete defiance; the issue



was discussed at the 31st National Convention of YWCA of India at New Delhi in the month of November 2022 where all the affiliate members participated; consequently a resolution was adopted wherein the National Convention appointed a task force authorizing the National Board of YWCA of India to take appropriate action against the first defendant and to implead himself in the scheme suit; the task force comprises of 4 members viz. Dr.Shakuntala David (Past President), Ms.Kalpana David (National General Secretary), Dr.Evangeline Joshua and Dr.Beulah Shekhar to take action against the present board of management and place an administrator and hold elections at the earliest by completing all the statutory guidelines.

5.6. The task force found that the present board of management and the first defendant were acting contrary to the objectives of YWCA of India and the task force recommended the suspension of the board of management of the first defendant and simultaneously the board of management of the first defendant was suspended and the board of management was taken over by the National Body from 24.11.2022 and the letter to that effect was



served upon the first defendant on 25.11.2022 personally as well as through email.

5.7. After receiving the letter of suspension, the board of management started defying against YWCA of India by replying to the letter of suspension and conspired together with the plaintiffs to go ahead with the proposed changes in the Constitution and the bye-laws through amendments at EGM; they passed the resolutions in an urge; the notice about the proposed EGM to be held on 26.11.2022 was not sent to 60 plus members and it is understood that 150 odd members were served with notice; some of the members who had got the notice were not allowed to participate in the EGM and they were stopped at the gate; the erstwhile management was able to get assistance of the police to stop the members, by stating that the meeting is being conducted in pursuant to the order of this Court dated 22.10.2022; only 70 members who could attend the EGM and out of which the majority were part of the faction of the plaintiffs and the erstwhile board; the members who attended the EGM had also told that the meeting was a complete chaos and the whole meeting was even videographed.



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5.8. Despite there was no required 3/4th majority, the resolutions were declared to be passed by manipulation; the plaintiffs and the erstwhile board of management of the first defendant approached the Court to advance the hearing from 05.12.2022 to 02.12.2022 by stating that they want to record the compromise and amendment and wanted a decree in that manner; this Court without knowing the *mala fide* intention of the parties had advanced the hearing to 01.12.2022.

5.9. In view of the suppression of the material facts and the *mala fide* intention of the plaintiffs and the present board of members, the applicant has filed the application to implead himself as a party to the proceedings; after knowing the objections from the proposed parties, the plaintiffs wanted to withdraw the suit; after having succeeded in using the Court orders to do an illegal act outside the purview of the Constitution and bye-laws of the first defendant.

Counter filed by the third respondent / first defendant in brief:-



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6. Any party intending to implead himself in a suit filed under Section 92 of C.P.C. cannot project a fresh cause of action; it is a settled law that if any person desires to be a party to the proceedings under Section 92 of C.P.C. can only predicate the suit on the original averments and cause of action and subsequent events cannot be taken into consideration; in all applications filed by the applicants they have stated about their grievance with regard to the resolutions passed in EGM held on 26.11.2022; EGM was conducted in pursuant to the registered bye-laws of the Association and consequent to the settlement arrived at between the first respondent and the original plaintiffs.

6.1. The settlement was arrived at after extensive mediation proceedings between this respondent and the original plaintiffs, presided over by the Hon'ble Mr.Justice G.M.Akbar Ali (retd.), Judge, Madras High Court; in fact Ms.Deepthi Sugumar, Ms.Anita Thomas and Ms.Rani Rajkumar were present during these proceedings; the manner in which the meeting was convened or any decisions made therein may bring a fresh



cause of action, which cannot have any bearing on the present suit where the original plaintiffs have sought to withdraw the suit.

6.2. The bye-laws were confirmed in the year 2012 and they never registered before the Registrar of Societies as required under law; YWCA was constituted in the year 1892 and YWCA of India was formed in the year 1898; the bye-laws of the Association are separate and distinct; this respondent has been registered under the Tamil Nadu Societies Registration Act, the properties held by them are also in their own capacity, by taking advantage of the intention of YWCA's across the country had passed indiscriminate resolutions attempting to usurp the management of the sister concerns; a resolution was unilaterally passed for arrogating the right to office bearers to take charge of assets of the sister concerns.

6.3. This was without any approval or resolutions from sister concerns and it has caused a wide gap between the two institutions; the resolutions passed by YWCA of India will not bind this respondent as it is neither a resolution approving such supervision nor is there any amendment



to the bye-laws, conferring such rights; YWCA of India is a third party in so far as this respondent is concerned and hence the application to implead YWCA of India is unsustainable.

6.4. YWCA of India has taken an unique stand that they had a council meeting and adopted to take over the management of YWCA of Madras through a task force; the EGM adopted the amendment to the bye-laws in terms of the settlement arrived between this respondent and the original plaintiffs on 26.11.2022; in pursuant to the EGM, the plaintiffs reported to this Court that they intended to withdraw the case; it was represented by this respondent that the elections are due to be held and the request of the original plaintiffs to withdraw the suit should be considered; the issues raised in the applications filed by the applicants cannot be the subject matter of the present suit; the pleadings of the plaintiffs cannot be sought to be amended by way of an application to implead the parties; new Constitution was approved by the AGM in the year 2012 but the same had not been registered and hence Articles of the 2005 Constitution would be applicable.



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6.5. After much efforts, the members of YWCA of India were removed and the management got restored to the members of YWCA of Madras; as per the amended bye-laws, no person who has been on the payroll of this respondent can be permitted to stand for elections to the board of this respondent and the same was adopted by majority members; as regards the quorum of board meetings, hybrid mode of conducting the meetings had been adopted and minimum quorum was maintained throughout.

6.6. A draft constitution was decided by the plaintiffs, the constitution review committee and the board of management and it was circulated to the Hon'ble Mediator for his approval and then further approval by the Court; it is only subsequent to the EGM, the draft of the finalised Constitution was circulated to all members on the rolls of YWCA of Madras as on 31.03.2022.

6.7. In the course of proceedings of the suit, the matter had been referred to mediation and in which the Hon'ble Mr.Justice G.M.Akbar Ali,



retired Judge of the Madras High Court was asked to mediate with the parties; after several meetings and discussions between the parties including some of the applicants seeking to implead themselves, guided the parties to a consensus; under his guidance, necessary amendments to the Constitution, Articles of Association and bye-laws of YWCA of Madras were framed and this was recorded by this Court by its order dated 28.10.2022 and all that remained was that this respondent should get it approved in the EGM.

6.8. Pursuant to the same, EGM was called for on 26.11.2022, the proposed Constitution 2022 had a majority voting in favour of its adoption, with 69% of the general body voting for adoption of the proposed constitution, 22% voting against and 9% abstaining from voting, thereby the constitution 2022 was adopted by more than 2/3rd majority voting in favour of the same; the grounds cited to implead the applicants as parties is not in accordance with the Constitution as there was a waiting period of one year, before a member can cast a vote, the persons who are in the registered post as on 31.03.2022 were not issued with notice; a bare perusal of the minutes of the meeting as on the day of the EGM would show that the applicants



questions were recorded, acknowledged and answered; the votes cast were carefully recorded and also included in the minutes of the meeting; it is false to state that 33 members disapproved the resolutions; the amendments were pursuant to a democratic process, the issues raised in the impleading applications paves a fresh cause of action and they cannot be agitated in the present suit. Hence the present applications should be dismissed.

7. The learned counsel for the applicants submitted that by making use of the proceedings that has arisen in the suit, the plaintiffs and the then board members of the first respondent had arrived at certain terms between themselves and amended the Constitution in accordance with their whims. It is further submitted that the members eligible to vote were not given notice or denied entry and the resolutions have been adopted in a hurried manner without following the rules. The bye-laws of the first defendant's society was amended in the year 2012 and convening the AGM is illegal. No compromise can be effected in a suit filed under Section 92 of C.P.C. for protecting the interest of the first defendant's society and hence, they cannot withdraw the suit in the context of the amendment made to the



Constitution which is detrimental to the interest of the first defendant's society.

7.1. As per Order XXIII Rule 3-B of C.P.C., no agreement or compromise in a representative suit shall be entered into without the leave of the Court expressly recorded in the proceedings and any such agreement or compromise entered into without the leave of the Court so recorded shall be void. As per Sub-Rule 2 of Order XXIII Rule 3-B of C.P.C., the representative suit would include the suits filed under Section 92 of C.P.C. and hence the present suit is also subjected to the provision of Order XXIII Rule 3-B of C.P.C. Since such interest of the first defendant is not protected, the applicants have to be impleaded in the suit and the suit cannot be allowed to be withdrawn on the alleged compromise between the plaintiffs and the board members of the first defendant.

8. The learned counsel for the applicant in Application No.436 of 2023 submitted that in a suit filed under Section 92 of C.P.C., all persons interested have to be impleaded in order to determine that the action of the



plaintiffs and the erstwhile board of the first defendant is against the objective of the society. As this Court is the ultimate guardian of any religious and charitable organization, all affected parties need to be impleaded to see if there is any illegality wherein the plaintiffs and the erstwhile board of management of the first defendant had used this Court orders to push the illegal amendment of the Constitution and the bye-law of the first defendant. The first defendant's society is affiliated to YWCA of India and it is the parent body. The board of Management of the first defendant has been suspended by YWCA of India and hence they can no longer be a party to give consent or no objection to the withdrawal and all representations to the Court or before any authority has to be done by the representatives of the National Board alone.

9. In support of their above contentions, the learned counsels for the applicants cited the decision of this Court held in *The Tamilnadu Evangelical Lutheran Church vs. Daniel Shanmugam & Others* reported in 2010-3-L.W.813 wherein it is stated that the amendment to the Constitution has to be done only in accordance with Section 12 of the Tamil Nadu Societies



Registration Act 1975 and the Registrar of Societies have also raised the objection to the manner in which the amendment has been made and hence the amendments are illegal. Therefore, in order to protect the interest of the first defendant's society in bringing out the real facts, the applicants should be impleaded as parties to the proceedings.

10. The learned counsel for the third respondent / first defendant submitted that the applicants are taking advantage by joining hands with YWCA of India which has undue power and control over the first defendant's society. The plaintiffs have filed the suit for seeking scheme decree for better management of the society and during the course of the said proceedings, a retired High Court Judge was appointed as a Mediator and after several discussions, a draft Constitution was framed and for which the amendments have to be done in a manner known to in the bye-laws. The bye-laws 2012 was not registered and hence the amendment to the Constitution and the convening of the meetings etc. should be conducted only in accordance with the bye-laws of the year 2005.



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11. The suit is not going to be withdrawn as it was compromised between the parties only because the object of the suit has got fulfilled due to the subsequent developments. Some of the applicants themselves had participated in the EGM where the resolutions were passed to adopt the amendments to the Constitution. The amendments were made to control the undue authority exercised by the YWCA of India. In fact, the YWCA of India has been created subsequent to the creation of the first defendant's society and hence it cannot exercise control over YWCA.

12. But whatever may be the case, a suit filed for certain purpose cannot be dilated now for the reasons stated by the applicants and that would amount to amend the averments of the plaint in an indirect manner. By way of impleading the applicants, the applicants cannot be allowed to raise any fresh cause of action other than the cause of action for which the suit has been filed.

13. The suit has been filed originally by the plaintiffs, who are respondents 1 and 2 for the following reliefs:-



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“(a) to formulate a scheme whereby the first defendant adheres to the bye laws of the constitution in the matter of electing the office bearers, board members and members of the nominating committee and thereby administer the day to day activities of the society and the management thereof in accordance to the spirit and letter of the constitution.

(b) issue a mandatory injunction directing the first defendant to submit periodical reports to the second defendant in accordance with the provisions stipulated under the Act;

(c) to pay the cost of the suit.”

14. During the pendency of the suit, the differences between the first defendant's society and the plaintiffs interest were addressed before the Court. Taking into consideration of the same and also to enable the parties for formulating bye-laws in the matter of electing the office bearers, the board members and members of the nominating committee and to administer the day-to-day activities of the society and management in accordance with the letter and spirit of the constitution, the Hon'ble Mediator



has been appointed, a retired Judge of Madras High Court Judge, Hon'ble Mr. Justice G.M. Akbar Ali has been appointed as a Mediator.

15. The Hon'ble Mediator held several discussions with the parties interested and arrived at a consensus for framing a Constitution and Articles of Association and bye-laws of YWCA of Madras 2022. The draft was finalised by the Hon'ble Mediator is agreeable to both the parties and it is agreed that they accept the same subject to the approval by the EGM.

16. The report of the Hon'ble Mediator would show the efforts taken in this regard along with the draft Constitution 2022. Accordingly, the draft was placed before the EGM in which the resolutions have been adopted successfully in accordance with the bye-laws 2005. And the amendments have also been made to the effect of containing the interference of YWCA of India, which was constituted subsequent to the creation of the first defendant's society.



17. It is claimed by the applicants that the resolutions have been adopted are not compatible the bye-laws and the members eligible to vote were also not given notice and they were denied to participate in the EGM. Even in the application filed by some of the applicants they have stated that they themselves participated in the EGM that was held for the purpose of adopting the amendment constitution.

18. During such kind of meetings and passing resolutions there may be difference of opinions between the members but that alone cannot be the reason to expand the scope of the suit by framing any issues as to the legality of adopting the resolutions etc. The amended draft Constitution has been arrived at after a long discussions held between parties and the Hon'ble Mediator and the report of the Hon'ble Mediator would show that some of the applicants themselves had participated in such meetings.

19. While the applicants state that the resolutions which have been passed towards reframing the Constitution by including certain amendments would go against the interest of the first defendant's society, the first



defendant's society claims that those resolutions were badly needed in order to restructure the management in a way that is suitable for a proper management. Once the resolution is passed and the Constitution are amended after great efforts, it cannot be presumed that the amended Constitution of the year 2022 would be detrimental to the interest of the first defendant's society.

20. YWCA of India has submitted that it is a supervisory body and the bye-laws of the first defendant's society should be compatible and in the manner suggested by the National Body. However the first defendant submitted that the first defendant's society has been constituted much before the YWCA of India has come into effect. In fact the affiliates to the National body at their option had chosen to adopt certain model bye-laws. If the first defendant has not chosen to continue the affiliation, then there can not be any compulsion on the first defendant that it should adopt the model bye-laws as suggested by the National body. When a State body can exercise its option to get associated with the National body, it will also have the option to get disassociated from the National body. Whatever may be the case, the



issue as to whether the first defendant's society is subject to the control and management of the YWCA of India cannot be the subject matter of this suit where a Constitution has been reframed for a proper management of the society.

21. The submissions made by the applicants would show that the cause of action was primarily due to the grievance with regard to the manner in which EGM was convened and the resolutions were adopted. As of now, the new Constitution has come into effect and with that the suit itself would come to an end. This is irrespective of any compromise between the plaintiffs and the then board of members of the first defendant's society.

22. In fact, there was no compromise between the members. But what is seen from the records is a consultation process adopted by the Hon'ble Mediator in order to place the management of the first defendant's society in a proper manner. So the cause of action which has arisen for filing the suit cannot be extended to that of a dispute between the members of the first defendant's society.



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23. Though it is correct to state that under Order XXIII Rule 3-B of C.P.C. permission should be obtained for withdrawing any proceedings on any compromise. In my considered view, such a situation has not arisen in the suit. Because the object of the suit is brought to an end not because of any compromise that has been arrived between the plaintiffs and the then board members of the first defendant's society, but it is purely through the efforts of the Hon'ble Mediator, a consensus between the parties including some of the applicants who evinced interest in the proper management of the society has been arrived at and the resultant reframing of the bye-laws of the first defendant's society.

24. The draft Constitution cannot have any legal validity, only basing upon the understanding between the plaintiffs and the then board members of the first defendant's society. The Constitution has to be placed before the EGM and it has to be approved in a manner known to the bye-laws in force. So the consultation process that had occurred before the culmination of the draft Constitution cannot be construed as a compromise between the plaintiffs and the first defendant's society. So the applicability of



Order XXIII Rule 3-B of C.P.C. has not arisen for the present situation. It is upto the applicants to file a fresh suit for challenging the legality of the EGM that is held on 26.11.2022 and to declare any of the resolutions as null and void, if they are so aggrieved. But scope of this suit cannot be extended to deal with those issues. Because the present suit has arisen on a different cause of action. Hence, I find no reason to implead the applicants as parties to the proceedings in order to deal with the issues extraneous to the scope of the present suit.

25. In view of the above stated reasons, the applications in Application Nos.433 to 436 of 2023 are dismissed.

28.04.2023

Speaking order

Index : Yes

Neutral Citation : Yes

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To

The Registrar of Societies,
Office of the Registrar,
George Town,
Chennai - 600 001.

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Application Nos.433 to 436 of 2023
in C.S.No.393 of 2012



R.N.MANJULA, J.

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Pre-Delivery Common Order made in
Application Nos.433 to 436 of 2023
in C.S.No.393 of 2012

28.04.2023