



O.S.A.Nos.1 to 9 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.11.2023

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN
AND

THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

O.S.A.Nos.1 to 9 of 2023

AND

C.M.P.Nos.6, 8, 9, 10, 12 to 21, 23, 35, 37, 41,
14218, 14280, 2262 & 2266 of 2023

O.S.A.No.1 of 2023

The Madras Medical Mission
(A society registered under the Tamil Nadu
Societies Registration Act, 1975)
Rep. by its Hon'ble Secretary
No.4-A, Dr.J.Jayalalitha Nagar
Mogappair, Chennai 600 037

.. Appellant

Vs.

1.Joseph Abraham
2.M.M.Philip

.. Respondents

Original Side Appeal filed under Order XXXVI Rule 1 of Original Side Rules read with Clause 15 of Letters Patent, against the order dated 02.12.2022 passed in O.A.Nos.468 of 2022 in C.S.No.154 of 2022.



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For Appellant : Mr.S.Silambanan
in OSA.1 of 2023 Senior Counsel
for Mr.V.Hallel Ben

For 1st Respondent : Mr.P.S.Raman
in OSA.1 of 2023 Mr.Vijay Narayan
Senior Counsels
for Mr.Hari Radhakrishnan

COMMON JUDGMENT

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

Challenging the common order dated 02.12.2022 passed by the learned Judge in O.A.Nos.450 and 467 of 2022 in C.S.No.153 of 2022 and O.A.Nos.451 and 468 of 2022 in C.S.No.154 of 2022, these Original Side Appeals have been filed by the appellant / Madras Medical Mission.

2.The facts and circumstances leading to the filing of these appeals, as per the records available on record, would run thus:

2.1. The Governing Board of the Appellant society consists of 21 members, of which 7 members retire every year and the term of each member is fixed as 3 years. The respondents 1 to 4 have been elected pursuant to elections conducted in the year 2019 for the term 2019-22. However, the Governing Board passed a resolution dated 15.10.2020 suspending the respondents 1 to 4



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until completion of enquiry within 6 months and consequent action under clause 62 of the by-laws, to be taken. The resolution was communicated to the respondents 1 to 4 through a notice dated 19.10.2020. Subsequently, a civil suit in C.S. No. 329 of 2020 was filed by the respondents 1 to 4 for declaring the said communication as illegal, null and void and the same is pending.

2.2. On 15.07.2022, the 5th respondent- Secretary issued notice calling for nominations for elections to the Governing board for the 2021-24 term and upon receipt of seven nominations, the Appellant society declared the 7 persons who filed nominations as elected on 25.07.2022. Moreover, the Appellant society on 01.08.2022, issued notice calling for fresh elections to the Governing board for the term 2022-25.

2.3. Feeling aggrieved, the respondents 1 to 4 filed a civil suit in C.S. No. 153 of 2022 praying for a declaration to declare notices dated 15.07.2022 and 25.07.2022 as null and void and for a mandatory injunction to appoint a Judge Commissioner to conduct elections for the Governing Board of the Appellant society for the terms 2021-24 and 2022-25. An application in A. No. 3175 of 2022 in C.S. No. 153 of 2022 was also filed seeking a mandatory injunction to permit the respondents to participate in the elections. The applications filed in C.S. No. 153 of 2022 was taken up along with the applications in C.S. No. 154 of 2022, since the prayers were common and a



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common order was passed on 02.12.2022 by the Learned Judge.

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2.4. The Learned Judge, in addition to other reasons, found that the election was not conducted as per by-laws as there was no 21 days mandatory gap between the date of calling for nominations and the date of declaration of results in respect of elections conducted to the term 2021-24. It was further found by the Learned Judge that before the date on which the persons who filed nominations could withdraw, the results were declared. Hence, the Learned Judge set aside the election of 7 members. While so, it was held that the respondents 1 to 4 though cannot become members, they cannot be kept in permanent suspension and they were held to have voting rights in the elections held in the Appellant society. Accordingly, the learned Judge directed to conduct of elections for the terms 2021-24 and 2022-25 simultaneously by the Judge commissioner appointed with detailed directions stipulated therein.

2.5. The Appellant society was aggrieved by the aforesaid order passed by the learned Judge, on the ground that the learned Judge ought not to have prescribed a new method of election otherwise than prescribed by the by-laws. Therefore, they preferred these original side appeals before this court.



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3. When the matters were taken up for hearing, Mr. P.S. Raman, learned senior counsel appearing for the respondents submitted that a General Body Meeting was convened on 11.11.2023, in which, a resolution was passed by the Appellant Society to direct the Advocates representing on behalf of them, to withdraw the appeals and fresh election to be conducted as per the order passed by the Learned Judge. Therefore, nothing survives for further adjudication herein.

4. In reply, the learned counsel appearing for the Appellant submitted that the appellant is inclined to challenge the resolution so passed on 11.11.2023, in the manner known to law and hence, liberty may be granted to the appellant for the same.

5. Recording the above submissions made by the learned counsel appearing for both sides, liberty is granted and these appeals stand disposed of accordingly. Consequently, connected miscellaneous petitions are closed.

[R.M.D,J.] [M.S.Q, J.]
30.11.2023

Internet : Yes
Neutral Citation : Yes/No
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