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1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.11.2023**

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.M.A(MD)NO.601 OF 2023

and

C.M.P(MD)No.7720 of 2023

Sengunthar Dharma Paripalana Sabai,
(Registered NO.32/1956),
Palani,
represented through Secretary
Nehru,
Door No.193, Sannathi Street,
Adivaram, Palani Town.

:Appellant/Petitioner/Plaintiff

.VS.

A.Paramasivam

: Respondent/Respondent/
Defendant

PRAYER: Civil Miscellaneous Appeal filed under Order 43 Rule 1(U) of Civil Procedure Code against the fair and decretal order made in I.A.No.77 of 2023 in O.S.NO.68 of 2023, dated 17.03.2023, on the file of the Additional District Court(Fast Track Court), Palani.

For Appellant

:Mr.V.Muthukamatchi

For Respondent

:Mr.D.Venkatesh

JUDGMENT

This Civil Miscellaneous Appeal is filed challenging the order passed in I.A.No.77 of 2023 in O.S.NO.68 of 2023, dated



17.03.2023, on the file of the Additional District Court(Fast Track Court), Palani.

2.The suit in O.S.No.68 of 2023 was filed by the plaintiff/appellant seeking the relief of declaration that the plaintiff is entitled to manage the affairs of the plaintiff/Sabha and for organizing various functions of the Sabha and for permanent injunction restraining the defendant from interfering with the functioning of the plaintiff/Sabha by electing new office bearers or other means and for costs of the suit. Along with the plaint, I.A.No. 77 of 2023 was filed seeking temporary injunction till the disposal of the suit. After considering the rival submissions made on either side, the learned Additional District and Sessions Judge(Fast Track Court), Dindigul chose to dismiss the injunction petition. Challenging the said order, this Civil Miscellaneous Appeal is filed.

3.The learned counsel for the appellant submitted that the learned trial Judge has not considered the various pending litigations between the parties, more specifically, W.P.No.19220 of 1998, W.P.No.24821 of 2001 and W.P.No.3620 of 2021 which are pending before High Court. There was an order passed that till the election is conducted, old office bearers shall administer the



functioning of the plaintiff/sabha. This order was not considered.

W.P.No.4233 of 1999 challenging the order passed by the District Registrar with regard to the amendment of the proposed by-law was filed. All these Writ Petitions and the orders passed thereon were not properly considered. Thus the appellant has filed this Civil Miscellaneous Appeal.

4. In response, the learned counsel for the respondent submitted that the election to the plaintiff/Sabha was conducted subsequent to the filing of the suit i.e., on 19.3.2023 and new office bearers were elected and they assumed the office. Thus, the prayer sought for in the Civil Miscellaneous Appeal has become infructuous. The learned counsel further submitted that the appellant filed the suit in O.S.No.411 of 2018, on the file of Sub Court, Palani against five defendants challenging the assumption of Office. The suit was filed for the relief of declaration and for mesne profits and the filing of this suit was not mentioned in the present suit. In the said circumstances, the learned trial Judge found that the suit was filed showing the respondent who is in no way connected with the plaintiff/Sabha. Suit was filed with an ill motive to to get an order to disturb the functioning of the Sabha. Therefore, the learned trial Judge finding that plaintiff has not



approached the Court properly and that the plaintiff had filed the suit with unclean hands, dismissed the petition.

5.From the consideration of the materials and the submission of the learned counsel for the parties, it is patently clear that the plaintiff had filed the suit in O.S.No.411 of 2018 seeking for the relief of declaration that the assumption of office by the defendant has to be declared as null and void and for the relief of mesne profits and injunction. It is not in dispute that the filing of the said suit was not mentioned in the present suit. It is also observed that there is no material produced to show that the defendant has in connection with the plaintiff/Sabha. Primarily, on these reasons, the injunction petition was dismissed. Now it is informed that election had already been conducted on 19.03.2023 and new office bearers have assumed Office.

6.In the said circumstances, this Court is of the view that this Civil Miscellaneous Appeal has become infructuous and as such, there is no cause for interference in the order of the learned trial judge.

7.Accordingly, the order passed in I.A.No.77 of 2023 in



O.S.NO.68 of 2023, dated 17.03.2023, on the file of the Additional District Court(Fast Track Court), Palani is confirmed and this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

29.11.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
vsn

To

- 1.The Additional District Judge,
(Fast Track Court),
Palani.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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6

G.CHANDRASEKHARAN,J.

vsn

**JUDGMENT MADE IN
C.M.A(MD)NO.601 OF 2023
and
C.M.P(MD)No.7720 of 2023**

29.11.2023