



CRP (MD) No.1832 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

|                      |            |
|----------------------|------------|
| <b>Reserved on</b>   | 16.08.2023 |
| <b>Pronounced on</b> | 10.11.2023 |

**CORAM:**

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

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and

CMP(MD)No.9172 of 2023

Pastor Sam Sudhaker

... Petitioner

**Vs.**

- 1.The President,  
North Tamil Conference of Seventh Day Adventists,  
No.20/2, Williams Road, Trichy-1.
- 2.The Executive Secretary,  
North Tamil Conference of Seventh Day Adventists,  
No.20/2, Williams Road, Trichy-1.
- 3.The Treasurer,  
North Tamil Conference of Seventh Day Adventists,  
No.20/2, Williams Road, Trichy-1.
- 4.The President,  
South East India Union of Seventh Day adventists,  
No.197, GST Road, Vandalur,  
Chennai-600 048.



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5.The Secretary,  
South East India Union of Seventh Day Adventists,  
No.197, Gst Road, Vandalur,  
Chennai-600 048.

6.Mrs.Jeyanthi Raja,  
W/o.Raja

7.N.V.Grace,  
W/o. Nachimuthu

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order passed by the learned 1<sup>st</sup> Additional District Munsif Court, Trichy, made in I.A.No.2 of 2023 in O.S.No.354 of 2023 dated 18.07.2023 by allowing the above civil revision petition.

For Petitioner : Mr.J.Barathan  
for Mr.C.Gangai Amaran

For Respondents : Mr.S.C.Herold Singh

### **ORDER**

The above civil revision petition is preferred by the plaintiff in O.S.No. 354 of 2023 against the docket order passed in I.A.No.2 of 2023, on the file of First Additional District Munsif Court, Trichy, dated 18.07.2023.



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2. According to the petitioner/plaintiff, the suit in O.S.No.354 of 2023 was filed for the relief of declaration and for permanent injunction. In the said suit, the petitioner filed an application in I.A.No.2 of 2023 for an interim injunction restraining the respondents/defendants from convening and conducting the 6<sup>th</sup> constituency session to be held on 27.07.2023. However, the trial Court has adjourned the above interim application along with the suit to a further date. Hence, the above revision is preferred against the docket order passed by the learned trial Judge in I.A.No.2 of 2023.

3. The learned counsel for the petitioner would submit that the present notification for convening the 6<sup>th</sup> Constituency meeting issued by the respondent executive council on 21.06.2023, who were not duly elected as per bye laws of North Tamil Conference of Seventh day Adventists on 16.08.2018 without having more number of members and the selection of council was questioned in O.S.No.998 of 2018 and the same is pending adjudication and the meeting to be scheduled on 27.07.2023. The validity of the present meeting notice was challenged before the trial Court and also sought for an order of interim injunction. But without considering the



urgency of the above matter, the trial Court has not properly exercised discretionary power to grant an order of interim injunction and also ordered notice to defendants and posted the above matter on 17.08.2023 which would affect the right of petitioner and morefully the relief sought in the present suit would become infructuous. He would further submit that without deciding the validity of election conducted on 16.08.2018, the elected members has no authority to convene 6<sup>th</sup> Constituency meeting on 27.07.2023, which would affect the rights of the parties in the earlier suit in O.S.No.988 of 2018.

4. On the other hand, the learned counsel appearing respondents would submit that, the respondents herein are the President, Secretary and Treasurer of the North Tamil Conference of SDA, who were duly elected in the election conducted on 16.08.2018 by the Election Officer appointed by this Court in C.R.P(MD) No.2574 of 2015 and were continuing as the Administrators of North Tamil Conference. The petitioner had been the President till 2014 and by the interim orders of the Court, he continued as the President of the North Tamil Conference even upto 2018. Thereafter, the petitioner has no *locus standi* to file the present suit, since the petitioner is neither an elector or



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candidate. On perusal of records of the earlier proceedings, it would only show the mala fide intention of the petitioner in filing the above interim application and the suit in O.S.No.354 of 2023. By the order of this Court dated 26.07.2023, the Constituency session was conducted and a detailed report was filed by the respondent on 09.08.2023. He would also submit that the typographical error of the mentioning of Constituency Session as 6<sup>th</sup> Constituency Session of the North Tamil Conference instead of 7<sup>th</sup> Constituency Session of the North Tamil Conference was accepted by the delegates present in the constituency session and the declaration to open 7<sup>th</sup> Constituency Session of the North Tamil Conference was approved by all the delegates present, thus fulfilling the guidelines even as set forth in the Company Law Act 2013. The learned counsel would further submit that the election process is completed smoothly and successfully. None of the delegates, who participated in the session did not raise any issue before any Court of Law. The petitioner being a stranger who has nothing to do with the North Tamil Conference or its affairs or its constituency Session is before this Court, raising issue for the sake without stating his interest in the affairs of the North Tamil Conference. Therefore, the suit filed by the petitioner herein



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is only abuse of process of law and liable to be struck off. Hence, prays for dismissal of the petition and allow the out come of the election to be published for the smooth functioning of North Tamil Conference in the interest of justice.

5. Heard on both sides and records perused.

6. The revision petitioner has filed the suit in O.S.No.354 of 2023 for declaring the notification dated 21.06.2023 as null and void and for permanent injunction restraining the respondents 1 to 5 from conducting the 6<sup>th</sup> Consistency Session with the office bearers who were elected pursuant to the election held on 16.08.2018. The petitioner also filed I.A.No.2 of 2023 for interim injunction before the trial Court. The trial Court adjourned the said application along with the suit to a future date. Aggrieved by this, the petitioner preferred the above revision and also filed CMP(MD)No.9172 of 2023, in which this Court passed the following interim order:-

*“ To resolve the above issue, this Court deems it proper and appropriate to permit the respondents/defendants to convene and conduct the 6<sup>th</sup> Constituency Session according to the bylaws and policies*



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*and submit a report to this Court on or before 09.08.2023 in this regard. Until then an interim order is granted restraining the respondents/defendants from publishing the result of the outcome of the meeting or election.”*

7. Subsequently, the Constituency Session was conducted and a detailed report was filed by the respondents before this Court on 09.08.2023. Admittedly, the respondents herein were elected in the election conducted on 16.08.2018 by the Election Officer appointed by this Court in C.R.P(MD)No. 2574 of 2015 and were administering the affairs of the North Tamil Conference. It is also not in dispute that the petitioner in the year 2014 was the President of North Tamil Conference and conducted the Constituency on 29.05.2014. The brother of the petitioner, one Mr. Edward Daniel Chandrasekar, filed a suit and succeeded in getting an interim order in I.A.No.564 of 2014 in O.S.No.615 of 2014 on the very same day of the election i.e., 29.05.2014. The said order restrained the convening and conducting of the Constituency Session and if the election process is completed, it restrained the elected office bearers from administering the North Tamil Conference. The then church administrators filed the civil revision petition against the interim order in CRP(MD) No.2574 of 2015



which was finally allowed. Whereas in the present scenario, the petitioner filed O.S.No.354 of 2023 and his prayer in I.A.No.2 of 2023 before the learned 1<sup>st</sup> Additional District Munsif Court, Trichy, was to restrain the convening of the Constituency. When the I.A was not allowed and he has preferred this instant Civil Revision Petition. In both these instances, in the year 2014 and in the year 2023, it is pertinent to note that the intention of the petitioner herein and his brother is to stall the Constituency Session and the election process connected with it. In this regard the respondents consider it appropriate to reproduce the observations of this Court in CRP(MD) No.2574 of 2015 to understand the role played by the petitioner and his brother:-

*13. Thus, the case on hand is a classic example of an individual who was previously elected and continuing in the post by virtue of creating disputes by setting up false claims through his brother has successfully stalled the election process for all these years right from 2007 and managed to act as a President. The act of the second respondent is a deed of 'law maker should not be a law braker' in other words 'fences eating the crops' the sand is unacceptable”*



8. The Hon'ble High Court further observed about the role played by the petitioner's brother and the petitioner, who were the first and second respondents in the civil revision petition in 2015 as follows:-

*18. In sheer fraud and collusion the impugned orders is being obtained by the 1st respondent in conspiracy with the 2nd respondent and thus it would be suffice to strike down of the plaint being an abuse of process of Court. The Courts below are deceived and misled as to material circumstances and its process is being abused, resulting in the delivery of the impugned orders, which ought not to have been rendered considering the conduct of the 1st and 2nd respondents herein.*

9. The Hon'ble High Court saw through the plans of the first and second respondents and recorded its observation as follows:-

*20. This is a case where the 1st respondent at the instance of his brother, the 2nd respondent has played active role with hawk-eye that election is not conducted for all these years, so that the 2<sup>nd</sup> respondent would remain and occupy the Office bearer. These materials would clearly demonstrate that the 1st respondent has played corrupt practice at the instance of his brother, in ensuring that no election to NTC could be conducted.*



10. In conclusion, the Hon'ble High Court saw it as a fit case for striking out the plaint using the extraordinary powers under Article 227 and recorded thus:-

*36. For the foregoing reasons and in the light of the above settled legal pronouncements, this Court find that the filing of the above suit by the 1st respondent herein itself is a clear abuse of process of Court and law, based on the plaint averments and the admitted facts recited in the plaint and as well the prayer sought for thereby. In view of the elaborate discussion made above, this Court has no hesitation to strike off the plaint as it is a clear case of sheer abuse of process of Court, accordingly the plaint in O.S.No.615 of 2014 is struck off from its file.*

11. In the present case, the petitioner has sought for a judicial remedy without stating in what way he is aggrieved by convening of the constituency. Though the notice was issued more than a month before the constituency he had approached the Court only in the last week of the meeting. It would only goes to show that the intention of the petitioner is only to obtain an *ex parte* order. The petitioner failed to establish his *locus standi* to file the above suit and the interim application. It is well settled that an election process can be



challenged only by a person who is either a voter or a contestant. According to the respondents, the petitioner is not a participant in the electoral process and he is not a member of the churches of the North Tamil Conference nor he is a contestant. This fact is not rebutted by the petitioner. Therefore, without *locus standi* the petitioner has filed the above suit and the interim application. Even in the earlier proceedings in C.R.P(MD)No.2574 of 2015, this Court has observed that the petitioner neither being a participant of the election nor a delegate nor even a voter and as such he cannot question the conduction of the election. The above observations squarely applicable to the present scenario. The observation made in Civil Appeal No.2100 of 2020 in Tejbahadur Vs Shri Narendra Modi, referred by the learned counsel for the respondents squarely applicable to the present case, in which it has been categorical held as follows:-

*25. We find that the averments in the petition do not disclose that the appellant has a cause of action which invest him with right to sue. It is settled that where a person has no interest at all, or no sufficient interest to support a legal claim or action he will have no locus standi to sue. The entitlement to sue or locus standi is an integral part of cause of action. In T. Arivandandam v. T.V. Satyapal (1977) 4 SCC 467, V.R.*



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*Krishna Iyer J., speaking for this Court held that if on a meaningful-not formal – reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, it should be nipped in the bud at the first hearing.*

12. The respondents have stated that the election process is completed and the entire process went smoothly and successfully. None of the delegates who had participated in the constituency session and who are competent to raise any issue, have not approached this Court. The revision petitioner, who is a stranger has approached this Court without any *locus standi*. Therefore, in the said circumstances, while coming across such abusive suit, it is a bounden duty of this Court to prevent such abuse of process of law by striking out the plaint. However, a remedy is available to the respondents to approach the trial Court, where the suit is pending by filing appropriate application. Since the election process is completed and the result alone is withheld as per the direction of this Court, the interim order passed in C.M.P. (MD).No.9172 of 2023 by this Court stands vacated. The respondents are permitted to publish the result of the election immediately after the receipt of the copy of this order.



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**WEB COPY** 13. Accordingly, this Civil Revision Petition is closed. No costs.

Consequently, connected miscellaneous petition is closed.

**10.11.2023**

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

The 1<sup>st</sup> Additional District Munsif,  
Trichy.



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**K.GOVINDARAJAN THILAKAVADI**

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Pre-delivery order made in  
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