



W.A.(MD) No.1968 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **15.11.2023**

CORAM

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) No.1968 of 2023
and C.M.P.(MD) Nos.15383, 15384, 15386 to 15388 of 2023

A.Kandavelu

... Appellant/Writ Petitioner

-Vs.-

1.Yadhavar Kalvi Nidhi,
a Registered Society (Reg.No.85/1962),
Rep. through its Hon'ble Administrator,
Govindarajan Campus, Tirupalai, Madurai – 625 014.

2.The State of Tamil Nadu,
Rep. by its Secretary,
Commercial Taxes and Registration (M1) Department,
Fort St.George, Chennai.

3.The Inspector General of Registration,
Santhome, Chennai – 600 028.

4.The District Registrar of Societies,
Madurai North, Bibikulam,
Madurai – 2.

5.C.Jayaraman

6.K.Kannan



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7.R.V.N.Kannan

8.C.Krishnavel

9.N.Maniselvan

10.S.Muthukrishnanan @ Kittu ... Respondents/Respondents

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order dated 20.10.2023 made in W.P.(MD)No.22737 of 2023 on the file of this Court.

For Appellant : Mr.AR.L.Sundaresan,
Senior Counsel,
for M.Ponniah

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
For R2, R3 and R4

Mr.M.Ajmalkhan,
Senior Counsel,
for M/s.Ajmal Associates,
for R5

J U D G M E N T

(Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**)

The Writ Appeal on hand has been instituted directing against the order dated 20.10.2023, passed in W.P.(MD) No.23737 of 2023.



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2. The writ petitioner is the appellant before us and the Writ Petition was instituted to direct the Administrator of the 1st respondent Society to implement the order passed by this Court in W.P.(MD) No. 16340 of 2022, dated 04.09.2023, in letter and spirit by disqualifying the candidature of the respondents 5 to 10 as ineligible candidates and consequently declare the next succeeded candidates as elected in the election conducted to the first respondent Society on 05.08.2023.

3. A Writ Petition to implement the order passed in another Writ Petition is not entertainable. The Writ Proceedings under Article 226 cannot be pressed into service for executing an order passed under Article 226 of the Constitution of India. Thus, the Writ Petition itself is not entertainable.

4. Since the relief sought for in the Writ Petition in W.P.(MD) No.22737 of 2023 is to implement the order passed in W.P.(MD) No. 16340 of 2022, dated 04.09.2023, it is necessary to consider the relief sought for in the said Writ Petition filed in W.P.(MD) No.16340 of 2022.



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5. Three Writ Petitions were filed on earlier occasions and the relief sought for in all those Writ Petitions are as under:-

“PRAYER in WP(MD) No.16340 of 2022: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the sole administrator of the first respondent Society to delete 932 members out of 2874 total number of members finalized by the Sole Administrator of the first respondent as eligible voters for the upcoming election of the first respondent Society and also directing the members list to conduct the election for the first respondent Society, by considering the petitioner-s representation, dated 28.05.2022 within a time frame as framed by this Court.

PRAYER in WP(MD) No.18849 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the first respondent from proceeding with election process on 05.08.2023 to the first respondent Society without including the name of the petitioner in the voters list.

PRAYER in WP(MD) No.18939 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records pertaining to the respondents 1 & 2 vide impugned notification dated 30.06.2023 in connection with conduct of elections for the year 2023-2026 in respect of Yadhavar Kalvi Nithi and



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Yadhava College Execute member-s Election schedule to be conducted on 05.08.2023 and quash the same.”

6. We find none of the prayer sought for in the earlier Writ Petitions are maintainable. It is an admitted fact that the first respondent Yadhavar Kalvi Nidhi is a registered Society under the provisions of the Tamil Nadu Societies Registration Act, 1975. Therefore, the first respondent Society is not amenable to the Writ jurisdiction under Article 226 of the Constitution of India. If at all any dispute arises between the Society or its Members they have to approach the competent authority under the Tamil Nadu Societies Registration Act, 1975 or the competent Civil Court as the case may be.

7. In the present case, the parties have neither approached the competent authority nor instituted any civil suit before the competent Civil Court, but filed Writ Petitions seeking the relief which requires an elaborate adjudication with reference to the documents and evidences on record, since the facts are disputed.



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8. Therefore, we are of the considered opinion that the earlier Writ Petition filed in W.P.(MD) No.16340 of 2022, seeking the relief to delete 932 members out of total number of members finalized by the sole Administrator of the Society is not entertainable and the reliefs sought for in other Writ Petitions are also not entertainable.

9. The order impugned in the present Writ Appeal is to implement the order passed by this Court in W.P.(MD) No.16340 of 2022 dated 04.09.2023. Therefore, this Court has to necessarily consider the relevancy of the order passed in W.P.(MD) No.16340 of 2022. When we found that those Writ Petitions itself are not entertainable under Article 226 of the Constitution of India, the question of implementing those orders by filing another Writ Petition is beyond the scope of powers of judicial review and thus, we are not inclined to entertain the present Writ Appeal.

10. The issues raised between the parties are of civil nature. Therefore, a trial natured proceedings are imminent. The parties have to approach the Civil Court for resolving the disputes between the members and the Society or otherwise. However, High Court cannot conduct a



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roving enquiry in respect of such issues, which requires deeper examination of evidences and especially when an allegation of forgery of membership has been raised between the parties.

11. Disputed questions of facts cannot be adjudicated in a Writ Proceedings. Civil rights are to be decided by the competent Civil Court. Thus, the earlier Writ Petitions filed and also the subsequent Writ Petition filed, seeking implementation of the order passed in W.P.(MD) No.16340 of 2022 are not entertainable and the parties are to be relegated to the civil Court of law for the purpose of redressing their grievances in the manner known to law.

12. An appointment of an Administrator by the learned Single Judge in the earlier Writ Proceedings is only for better administration and the same would provide no further cause for the purpose of instituting another Writ Petition, seeking implementation of the order passed in the earlier Writ Petition. Thus, the issues are to be adjudicated before the competent civil forum. Consequently, none of the Writ Petitions instituted to resolve the membership issues and election dispute in a Society registered under the Tamil Nadu Societies Registration Act are



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entertainable and beyond the scope of Article 226 of the Constitution of India. Thus, all the parties are at liberty to approach the competent Civil Court of law for the purpose of redressal of their respective grievances in the manner known to law.

13. With these observations, the Writ Appeal stands disposed of. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

[S.M.S.J.] & [V.L.N.J.]
15.11.2023

NCC :Yes/No
Index :Yes/No
SJ

To

- 1.The Secretary,
Commercial Taxes and Registration (M1) Department,
State of Tamil Nadu,
Fort St.George, Chennai.
- 2.The Inspector General of Registration,
Santhome, Chennai – 600 028.
- 3.The District Registrar of Societies,
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