



SA.No.224 of 2003

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 09.07.2024

CORAM

THE HON'BLE Mr.JUSTICE C.KUMARAPPAN

S.A.No.224 of 2003
and
CMP.Nos.2106 & 6171 of 2003

1. Chinnasalem Sengunthar Mahajana Sangam,
rep. by its President T.Gunasekaran
Chinnasalem-606 201,
Kallakurichi Taluk
Villupuram District.
2. Chinnasalem Sengunthar Mahajana Sangam,
rep. by its Secretary C.K.Ravi
Chinnasalem-606 201,
Kallakurichi Taluk
Villupuram District.

... Appellants

- Vs -

1. Nallathangal
2. Jambulingam
3. Nagarajan
4. Kaliyammal
5. Chalajam
6. Chandra
7. Gunasekaran
8. Chinnasalem Sengunthar Mahajana Sangam,
rep. by its Treasurer P.Arivazhagan
Chinnasalem-606 201,
Kallakurichi Taluk,
Villupuram District.

... Respondents



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Second Appeal is filed under Section 100 of the Civil Procedure Code against the judgment and decree dated 27.01.2003 made in A.S.No.114/1997 on the file of the Subordinate Judge, Kallakurichi partly confirming the judgment and decree dated 30.09.1997 made in O.S.No.638/1985 on the file of the I Additional District Munsif Court at Kallakurichi.

For Appellants : Mr.P.Valliappan
Senior Counsel
for M/s.P.V.Law Associates

For Respondents : Mr.V.Manohar for R1 to R6
Mr.R.Sunil Kumar for R7
Mr.M.Muthappan for R8

J U D G M E N T

By the order of My Lord The Hon'ble Acting Chief Justice, this matter was taken up before this Court.

2. The defendants are the appellants herein. The sole plaintiff is the respondent herein.

3. For the sake of convenience, the parties will be referred to according to their litigative status before the Trial Court.

4. The brief facts which give rise to the instant Second Appeal is that, the plaintiff is a hereditary Nattamaidhar of Sengunthar community at Chinnasalem Village, Kallakurichi. The family of the plaintiff have been



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enjoying title of Nattamaidhar for over 100 years and, such title has been perfected by long use of prescription. In or about the year 1976 and 1977, on faction in the village, one Malai Mudaliar and Vinayaga Mudaliar claiming to be elected as leaders of the community started giving troubles to the plaintiff and the other Nattamaidhar viz., Nattamai Murugesu Mudaliar. In this regard, the plaintiff and Murugesu Mudaliar filed a suit in O.S.No.116 of 1977 for declaration of their status and to restrain the defendants therein not to interfere with the exercise of the rights of the plaintiff.

5. The suit was decreed, which decree was ultimately confirmed by this Court in SA.No.1457 of 1979. Under the terms of compromise, the status of the plaintiff as the hereditary Nattamaidhar has been recognised and that a sum of Rs.30,000/- shall be paid to them, and with numerous other clauses, a compromise was arrived. Since the date of compromise, the defendants by constituting a rival group, proclaiming themselves as the President, Secretary and Treasurer, neglected the plaintiff in contravention to the order of the Hon'ble High Court. It was also the contention of the plaintiff that even Rs.30,000/- as mandated under the compromise decree was not paid to them. To crown it all, the defendants have excommunicated the plaintiff from their right from 10.03.1985 to 09.03.1986. Therefore, the plaintiff constrained to



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file a suit for declaration to declare the “Senguntha Mahajana Sangam” [hereinafter shall be referred to as “Sangam”] is not legally valid one and also sought for a permanent injunction restraining the defendants from appreciating as office bearers of the Society.

6. The said suit was resisted by the defendants by admitting that there was a compromise decree in SA.No.1459 of 1979. However, they would submit that the office bearers of the Sangam have been duly elected by the members of Sengunthar Community on 13.03.1983. In the said election, the plaintiff has also participated and had signed the resolution. It is also the submission of the defendants that the plaintiff has agreed to receive a sum of Rs.30,000/- after surrendering all earlier accounts. Whereas, such accounts have not been so far surrendered. It is the further submission of the defendants that according to Clause 19 of the compromise decree, the Registration of the Society is not depended upon the payment of the amount to the plaintiff. It was also contended that the Sangam has got right to amend or add or alter the bye-law by 2/3rd majority. It is the further submission of the defendants that they are effectively functioning as office bearers with Sangam and that the registration of said Sangam is legally valid. It is the further submission of the defendants that the institution of the suit is barred



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under law as this Court has no jurisdiction. Hence, prayed to dismiss the suit.

7. Before the Trial Court, both the plaintiff and the defendants, have examined each 2 witnesses as PW1 and PW2 and DW1 and DW2. On behalf of the plaintiff, 17 documents have been marked as Exs.A1 to A17. On behalf of the defendants, 5 documents have been marked as Exs.B1 to B5.

8. The Trial Court, after having considered the oral and documentary evidence, decreed the suit as prayed for. Aggrieved with the judgement of the Trial Court, all the defendants preferred the First Appeal, where the First Appellate Court though concurred with the finding that the defendants have not complied with the compromise decree, since the Sangam has been registered in accordance with law declared that the Sangam is valid one. However, granted permanent injunction for a limited period till new office bearers are elected. The defendants after the judgment of the First Appellate Court, not satisfying with the order, preferred the instant Second Appeal.

9. At the time of admitting the Second Appeal, this Court has formulated the following substantial question of law:-

“1. Having rightly found that First Appellant Society was formed in accordance with Ex.A.1 Compromise Decree and hence the respondents/plaintiffs are not entitled to the main



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relief of declaration, whether the lower appellate Court is right in law in granting the consequential relief of decree for injunction?

2. Having rightly held that the reliefs sought for in the suit relates to the matters to be decided by the Statutory Authority under Section 37 of the Societies Registration Act, 1975, whether the lower appellate Court as Civil Court is entitled to take cognizance of such suit when such suits are impliedly barred as per Section 9 of the Code of Civil Procedure? Vide A.I.R.1963 S.C. 338

3. Whether the lower appellate Court has jurisdiction to issue the mandatory directions to the Joint Registrar of Co-Operative Society to take management of the society, which is beyond the scope of the suit?

4. Whether the Courts below are right in law in its construction of terms and clauses of Ex.A1 and A.?"

10. The learned Senior Counsel Mr.P.Valliappan appearing on behalf of the appellants would vehemently contend that when the First Appellate Court has rightly arrived at a conclusion that the plaintiff is not entitled for a declaratory relief, the grant of consequential relief of injunction is contrary to law. In support of his submissions, the learned Senior Counsel relied upon the following judgments:-



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1. ***Bathina Rama Sastrulu Vs. Bathina Damodara Rao*** reported in ***Indian Kanoon/138078736*** (SA.No.331/2003);
2. ***D.Anjappa & Others Vs. Marappa*** reported in ***2014-3-L.W.442***;
3. ***Padhiyar Prahladji Chenaji (deceased) through legal representatives Vs. Maniben Jagmalbhai (deceased) through legal representatives and others*** reported in ***(2022) 12 SCC 128***.

11. It was also the contention of the learned Senior Counsel that when the Societies Registration Act has provided a mechanism to alleviate the grievance of the members of the Society within the frame work of Societies Registration Act, transcending the special provision of Societies Registration Act common law remedy cannot be sought as the same is hit by Section 9 of CPC. The learned Senior Counsel would also further contend that Sangam has been registered in accordance with law, and has been doing its function according to the democratic principles. It was also the contention of the learned Senior Counsel that there cannot be any direction to the Registrar by way of mandatory injunction, so as to regulate the functioning of the Sangam. It was also the contention of the learned Senior Counsel that even according to the plaintiff's witness, the defendants have been functioning only in the



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interest and welfare of the Society. It was also the contention of the learned Senior Counsel that the issuance of direction to the Society is beyond the scope of the suit. Hence, prayed to interfere with the judgment of the First Appellate Court.

12. Per contra, the learned counsel for the respondents/plaintiff would vehemently contend that the judgment of both the Courts below is based on evidence and that there are concurrent finding that the defendants have violated the terms of compromise. It is the further submission of the respondents/plaintiff that violating the terms of the compromise, which was reached before the Hon'ble High Court has to be viewed seriously, and that there is a concurrent finding by both the Courts below that there was a flagrant violation of the conditions stipulated in the compromise decree. Therefore, it is the contention of the learned counsel for the respondents/plaintiff that the judgment of the First Appellate Court is well merited and does not require any interference.

13. I have given my anxious consideration to either side submissions.

14. It is pertinent to mention here that though the Trial Court has declared that the constitution of the defendants' Society as illegal, the First



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Appellate Court has found that such relief could not be granted when the same was registered in accordance with law. As against such finding and dismissal of declaratory relief, the plaintiff neither filed any appeal nor filed any cross objection. Therefore, the finding that the plaintiff is not entitled for a declaratory relief has reached its finality.

15. It is the submission of the learned counsel for the plaintiff that when the plaintiff is not entitled to have a declaratory relief, can he get a relief of permanent injunction?. In this regard, the learned Senior counsel by relying upon the judgment in **D.Anjappa's** case (cited supra) would contend that when the principal relief of declaration is denied, granting of consequential relief does not arise. In all those precedents, the relief of injunction is consequential to the declaratory relief.

16. Therefore, it is the duty of this Court to see whether the injunction sought by the plaintiff is that consequential relief to the declaratory relief or can be granted independent with that of the declaratory relief. On the face of it, the plaintiff has paid a separate Court fee seeking for the relief of permanent injunction and has not sought the relief of injunction as



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consequential to the declaratory relief. However, it is the contention of the learned Senior Counsel that the relief of injunction are intertwined and interconnected with the relief of declaration. If we go by the pleading that the defendants have violated the terms of compromise reached before the Hon'ble High Court under Ex.A1, there is a concurrent finding by both the Courts below that the defendants had violated such condition.

17. Based upon the above ground, the relief sought by the plaintiff is on two fold. On account of violation of terms of compromise, he seeks for the declaratory relief to declare that the Sangam is an invalid one; the other prayer is that, in view of the violation of terms of compromise, the Sangam should not act on behalf of the Sengunthar community. Therefore, on the face of it, both the reliefs are independent to each other. Even the Sangam is found to be valid, still the Court can go into the question as to whether such Sangam is competent to act on behalf of Sengunthar community.

18. At this juncture, this Court deems it appropriate to refer Ex.A1. Wherein as many as 20 conditions have been stipulated while they reached a compromise before the High Court in SA.No.1457 of 1979 dated 05.04.1983.



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Both the Courts below have concurrently found that the conditions enunciated under the terms of compromise has not been fulfilled. When a party has admitted that the plaintiff has to be treated as “Nattamaithar”, until his life time, and after his lifetime to give such status to his legal heirs, the attempt made by the defendants to excommunicate him would show the height of the violence against the Ex.A1-compromise made by the defendants.

19. It is pertinent to mention here that the Nattamaithar viz., the plaintiff must also a part of the executive committee. If at all the defendants have come across any information that the Nattamaithar has committed such misdeeds, they ought to have approached the appropriate forum to seek for a appropriate remedy so as to take action against such misdeeds. It is also pertinent to mention here that according to the compromise, even the property, which could be purchased subsequently should also stand in the name of two Nattamaithars and the President. Therefore, when the plaintiff has been conferred with many privileges and rights, the attempt made by the defendants to simply excommunicate him on such flimsy reason must be viewed very seriously and such misconduct of the defendants has to be nipped in the bud.

20. Only in that context, both the Courts below have granted injunction



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in favour of the respondents. When the plaintiff has got a valuable right to represent the community, the attempt made by the defendants to sideline them by way of an excommunication would run counter to the compromise reached before the High Court, which cannot be taken lightly. Therefore, this Court is of the firm view that, notwithstanding the rejection of the relief of declaration, in such a peculiar facts of this case, the course adopted by both the Courts below, granting permanent injunction is perfectly a correct approach.

21. Now that, the Trial Court has simply granted injunction restraining the defendants, whereas the First Appellate Court has streamlined such injunction for the effective functioning of the Sangam in the interest of Sengunthar community. Therefore, this Court is of the firm view that the direction given by the First Appellate Court could not be considered as illegal, as there is no manifest prohibition to file a suit before the Civil Court. The conditions stipulated in the judgment of the First Appellate Court is nothing, but reiteration of the duties of the Registrars under Section 37 of The Tamil Nadu Societies Registration Act. Therefore, this Court could not find any infirmity in the judgment passed by the First Appellate Court.

22. Thus, all the substantial questions of law are answered in favour of



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the respondents.

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23. In the result, this Second Appeal is dismissed. There shall be no order as to costs. Consequently, connected CMPs are also closed.

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Index : Yes

Speaking Order : Yes

NCC : Yes

To

1. The Subordinate Court,
Kallakurichi.
2. The I Additional District Munsif Court,
Kallakurichi.



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C.KUMARAPPAN, J

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