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C.R.P.No.1038 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1038 of 2024 and
CMP No.5416 of 2024

S.Murthy

Vs.

... Petitioner

Tamil Nadu Thanaarvu Nalakulumam,
rep. by its Secretary Dr.J.Tagore De Rose,
having office at No.49, Appadurai Main Street,
Ayanavaram, Chennai 600 023.

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 20.10.2023 made in I.A.No.2 of 2023 in O.S.No.5196 of 2018 on the file of the learned VI Assistant Judge, City Civil Court, Chennai.

For Petitioner

:Mr.M.A.Muthalakan



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the Trial Court allowing the application filed by the respondent/plaintiff seeking amendment of the plaint.

2. The respondent herein filed a suit for injunction restraining the petitioner from interfering the affairs of the respondent society by claiming himself as Secretary of the Society. The respondent also prayed for mandatory injunction directing the petitioner to hand over all the documents and articles of the respondent society.

3. Pending suit, the instant application has been filed by the respondent to substitute the name of the new Secretary in the place of the erstwhile Secretary. In the affidavit filed in support of the amendment application, it was claimed by the respondent that one V.R.Keshavaraj was elected as Secretary of the respondent association in its 49th General Body Meeting held on 09.01.2021 and hence, his name shall be substituted in the cause title in the



place of erstwhile Secretary Dr.J.Tagore De Rose. The said application was seriously opposed by the petitioner herein on the ground that above said Keshavaraj was not a member of the respondent society and he was not duly elected as Secretary on 09.01.2021.

4. The Trial Court, by impugned order, allowed the amendment application and preserved the right of the petitioner to raise objection at the time of final disposal. Aggrieved by the same, the petitioner is before this Court.

5. The learned counsel for the petitioner submitted that when the status of the new Secretary is disputed by the petitioner, the respondent should have produced some material before the Court to show that Keshavaraj was newly elected Secretary of the Society. In the absence of any material, the Trial Court ought not to have allowed the application.

6. The Trial Court in the impugned order while allowing the amendment application clearly observed that objection raised by the respondent will be



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decided along with other issues at the time of trial. Whether the said Keshavaraj was elected as Secretary of the respondent association or not and whether he is a member of the association or not are all the matters for evidence and hence, the said issue can be decided along with other issues at the time of trial. I do not find any reason to interfere with the order passed by the Trial Court as the same will not cause any prejudice to the petitioner especially when petitioner's right to raise his objection at the time of final disposal is preserved. It is made clear that petitioner is entitled to raise his objections with regard to the status of Keshavaraj to represent the respondent association by filing additional written statement and the said issue shall be decided by the Trial Court at the time of final disposal along with other issues.

7. With these clarifications, the Civil Revision Petition is disposed of.

No costs . Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes / No

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S.SOUNTHAR, J.

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