



CRP.Nos.1914 to 1916 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 29.11.2024

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Civil Revision Petition Nos.1914 to 1916 of 2021
and
Civil Miscellaneous Petition No.14833 of 2021

Sourashtra Vipra Sabha
Represented by its
Secretary, Mr.P.Babu

Petitioner in all the
.. Civil Revision Petitions

Versus

1. R. Thilak
2. K. Sekar

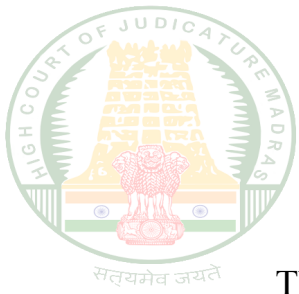
.. Respondents in all the
Civil Revision Petitions

Civil Revision Petitions has been filed under Article 227 of Constitution of India, seeking to set aside the fair and decretal order dated 18.03.2021 passed in I.A. Nos.2 to 4 of 2021 in O.S. No. 2 of 2013 on the file of the learned Additional District Munsif, Namakkal.

For Petitioner : Mr. N. Prem Kumar
for Mr. Senthil
in all the Civil Revision Petitions

For Respondents in all CRPs : No Appearance for R-1
in all the Civil Revision Petitions

Mr.D.Shivakumaran for R-2
in all the Civil Revision Petitions



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COMMON ORDER

These Civil Revision Petitions have been filed to set aside the fair and decretal order dated 18.03.2021 passed by the learned Additional District Munsif, Namakkal in I.A. Nos. 2 to 4 of 2021 in O.S. No. 2 of 2013

2. The brief facts, which are necessary for the disposal of these Civil Revision Petitions, are as follows:-

2.1. The Plaintiff in O.S. No. 2 of 2013 on the file of the learned District Munsif, Namakkal had filed the Suit for recovery of possession of property belonging to Sourashtra Vipra Sabha. When the Suit was pending, the General Body Election of the Sourashtra Vipra Sabha was conducted in which new Office bearers were elected and such new Office bearers took office. Subsequently, a resolution was passed to the effect that the Suits filed by or on behalf of the Sourashtra Vipra Sabha is to be conducted either by the President or by Secretary and those litigant has to proceed with the co-operation of the President and Secretary.

2.2. When the suit was taken up for trial, the then Secretary was examined as P.W-1. Subsequent to the election of the new Office bearers, one Tr. Babu, Secretary of Association filed I.A. Nos. 2 to 4 of 2021 in O.S. No. 2 of 2013 to recall P.W-1 so as to mark the resolution passed by the Sourashtra Vipra Sabha which indicates the name of the newly elected Office bearers.



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Another application in I.A. No. 2 of 2021 in O.S. No. 2 of 2013 was filed to reopen the Suit. Yet another application in I.A. No. 3 of 2021 in O.S. No. 2 of 2013 was filed to recall P.W-1 and I.A. No. 4 of 2021 in O.S. No. 2 of 2013 was filed seeking leave of the Court to mark the documents.

2.3. The Defendant in the Suit, who are Respondents in I.A. Nos. 2 to 4 of 2021 filed counter and vehemently objected to the relief sought for in those petitions for reopen, recall and to mark documents stating that the Plaint was verified by the President of Sourashtra Vipra Sabha Association whereas the Interlocutory Applications to reopen, recall and to mark documents had been filed by the Secretary. Further, Application in I.A. No. 400 of 2017 filed by the Secretary to amend the cause title in the Plaint by removing the name of President and include the name of Secretary was dismissed based on the objection of the Respondent. Against the dismissal of I.A. No. 400 of 2017, Sourashtra Vipra Sabha had not preferred any Appeal or Revision. Under those circumstances, the Petition to reopen the Suit, to recall P.W-1 and to mark additional documents filed by the Secretary cannot be accepted and prayed for dismissal of those applications

2.4. The learned Additional District Munsif, Namakkal taking note of the nature of objections raised by the learned Counsel for the Respondent, the counter filed and the arguments advanced by counsel for both sides, dismissed



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the three Petitions on 18.03.2021.

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2.5. Aggrieved by the order dated 18.03.2021 passed in I.A. Nos. 2 to 4 of 2021 in O.S. No. 2 of 2013, these Civil Revision Petitions had been filed.

3. The submission of the learned Counsel for the Revision Petitioner is that based on the resolution of the General Body Meeting of the Sourashtra Vipra Sabha Association, the Secretary had filed the petitions in I.A. Nos. 2 to 4 of 2021. As per the resolution passed in the General Body Meeting of the Sourashtra Vipra Sabha, the Plaintiff as well as Secretary are entitled to file Complaint, Petition, affidavit, etc., and that was also furnished before the trial Court. However, the trial Court dismissed the petitions without assigning any reason. It is an accepted principle that cases initiated by Society or an Association will be conducted either by the President or the Secretary when new Office bearers are elected. Therefore, the petitions filed by the revision petitioner ought to have been allowed by the Court below. The learned Additional District Munsif, Namakkal was carried away by the objections raised by the Respondent without adverting to the averments made by the revision petitioner in the Petitions. The learned Counsel for the Revision Petitioner therefore prayed for allowing the petitions.

4. In support of his contention, the learned Counsel for the Revision



Petitioner invited the attention of this Court to the following reported rulings:

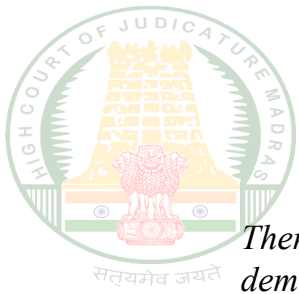
WEB COPY 4.1. In the case of ***United Bank of India Vs. Naresh Kumar and Others*** reported in **(1996) 6 SCC 660** the Hon'ble Supreme Court has held as follows:

“A.Civil Procedure Code, 1908 – Or.6 R.14, Or.29 R.1 and Or.41 R.17 (1) (b) – Pleading -Suit by company – Plaintiff can be signed and verified by a person duly authorised – Company may expressly authorise one of the Officers to sign the Plaintiff or it may ratify, expressly or impliedly, the act of signing – Court can render its finding about the ratification on the basis of evidence on record and circumstances especially conduct of the trial – Even if trial Court finds that the plaintiff was not duly signed and verified by a competent person, appellate Court in exercise of powers under Or. 41 R.27 (1) (b) can require a power of attorney to be produced or can order a competent person of the company to be examined as witness to prove the ratification – Having regard to the facts and circumstances, held, plaintiff had been signed and verified by a competent person.

B. Practice and Procedure – Pleadings - Substantive rights should not be allowed to be defeated on technical grounds of procedural irregularity so as to ensure that no injustice done to any party”.

4.2. In the case of ***P.Nazeer etc. Vs. Salafi Trust and another*** reported in **2022 SCC OnLine SC 382** the Hon'ble Supreme Court has held as follows:

“The aforesaid finding is completely contrary to law. A society registered under the [Societies Registration Act](#) is entitled to sue and be sued, only in terms of its bye laws. The bye laws may authorise the President or Secretary or any other office bearer to institute or defend a suit for and on behalf of the society. Under [section 6](#) of the Societies Registration Act, 1860, “every society registered under the Act may sue or be sued in the name of President, Chairman, or Principal Secretary, or trustees, as shall be determined by the rules and regulations of the society and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion”. Even the Travancore Cochin Literary, Scientific and Charitable [Societies Registration Act, 1955](#), which is applicable to parts of Kerala carries a similar provision in [section 9](#).



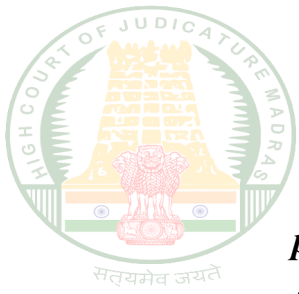
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Therefore, unless the plaintiff in a suit which claims to be a society, demonstrates that it is a registered entity and that the person who signed and verified the pleadings was authorised by the bye laws to do so, the suit cannot be entertained. The fact that the plaintiff in a suit happens to be a local unit or a Sakha unit of a registered society is of no consequence, unless the bye laws support the institution of such a suit."

5. On the other hand, the learned Counsel for the Respondents vehemently objected the line of argument of the learned Counsel for the Petitioner by stating that after cross-examination of P.W-1, when the suit reached the stage of argument, the Secretary of Sourashtra Vipra Sabha had filed I.A.Nos.2 to 4 of 2021 seeking to reopen, to recall and to mark documents. Such applications have been filed only to confuse the Court. Furthermore, by virtue of such applications, all the earlier proceedings of the Court is sought to be nullified. The intention behind the filing of those applications is to cause harassment to the defendants/respondents and to gain time. The order passed by the learned Additional District Munsif, Namakkal dismissing I.A.No.2 of 2021, I.A.No.3 of 2021 and I.A.No.4 of 2021 in O.S.No.2 of 2013 by common order dated 18.03.2021 is a well reasoned order and it does not warrant any interference by this Court in exercise of the power of Revision under Article 227 of the Constitution of India.

Point for consideration:

Whether the fair and decretal order dated 18.03.2021



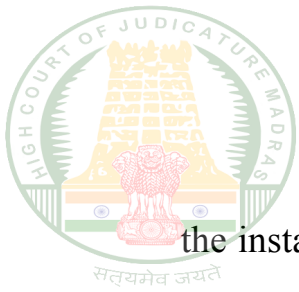
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***passed by the learned Additional District Munsif, Namakkal
in I.A.Nos.2 to 4 of 2021 in O.S.No.2 of 2013 is to be set
aside as perverse?***

6. Heard the learned Counsel for the Revision Petitioner and the learned Counsel for the second Respondent. Perused the the fair and decretal order dated 18.03.2021 passed in I.A. Nos. 2 to 4 of 2021 in O.S. No. 2 of 2013 by the learned Additional District Munsif, Namakkal and the rulings cited by the learned Counsel for the Revision Petitioner

7. It is seen from the records that earlier a Petition in I.A.No. 400 of 2017 has been filed by the Secretary of the Association seeking to amend the cause title by removing the name of the President and to include the name of the Secretary representing the Plaintiff's Sourashtra Vipra Sabha. The relief sought for in that application was refused and the application for amendment was dismissed. As against the order passed in I.A. No. 400 of 2017, the Plaintiff did not prefer any Appeal or Revision. Under those circumstances, the instant applications filed by the revision petitioner, if entertained, would only delay the proceedings besides cause confusion in the pleadings. Merely because the election was conducted to the plaintiff Sabha in which new office bearers were elected and have passed a resolution, there is no necessity to file



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the instant applications to reopen the suit and to recall the deposition of PW1.

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When the suit was posted for argument, the instant applications have been filed without any necessity. It is needless to mention that the case of the plaintiff will be decided on the basis of the pleadings already made in the plaint, deposition of the witness recorded and the documents marked. In such circumstances, these applications filed by the Revision Petitioners would only delay the adjudication of the suit and therefore they are unwarranted. The fair and decretal order dated 18.03.2021 passed in I.A.Nos.2 to 4 of 2021 in O.S.No.2 of 2013 passed by the learned Additional District Munsif is a well-reasoned Order which does not warrant any interference. If the applications are allowed, the substantial rights of the parties to the suit will be altered and adversely affect the parties themselves.

8. In the light of the above discussions, the point for consideration is answered in favour of the Respondents and against the Petitioner. The fair and decretal order dated 18.03.2021 in I.A.Nos.2 to 4 of 2021 in O.S.No.2 of 2013 passed by the learned Additional District Munsif, Namakkal is found not perverse.

In the result, these ***Civil Revision Petitions are dismissed.*** The fair and



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decretal order dated 18.03.2021 in I.A.Nos.2 to 4 of 2021 in O.S.No.2 of 2013

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Consequently, connected Miscellaneous Petition is closed. No costs.

29.11.2024

dh

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order

To

1. The Additional District Munsif,
Namakkal.
2. The Section Officer,
V.R. Section,
High Court Madras.



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SATHI KUMAR SUKUMARA KURUP, J

dh

Common Order in
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