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C.R.P.No.2579 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.2579 of 2024
and C.M.P.No.13512 of 2024

The Music Academy Madras
Represented by its Treasurer
Mr.V.Balasubramanian
No.168, T.T.K.Road
Royapettah, Chennai 600 014.

... Petitioner

-Vs-

1.T.Lokanadha Sarma
2.N.Murali
3.Dr.Meenakshi Krishnan
4.N.Ramji
5.V.Srikanth
6.V.Sriram
7.Sri Srinivasan
8.K.N.Venkatesan

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the order dated 27.03.2024 passed in I.A.No.3 of 2023 in O.S.No.3859 of 2023 on the file of the XXII Assistant Judge, City Civil Court at Chennai.

For Petitioner : Mr.T.Mohan, Senior Counsel
for Mr.K.Surendar

ORDER

This civil revision petition arises against the order passed by the learned XXII Assistant Judge, City Civil Court, Chennai in I.A.No.3 of 2023 in O.S.No.3859 of 2023.



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2. I.A.No.3 of 2023 is an application moved for rejection of plaint. O.S.No.3859 of 2023 is a suit for declaration that the notes on election dated 14.05.2023 for the election dated 25.06.2023 of the first defendant society is null and void and for permanent injunction restraining the defendants 2 to 6 from functioning as President and Secretary of the first defendant Society even after the expiry period ie. 30.06.2023.

3. The case of the plaintiff is that he had filed a valid nomination in terms of the notes on election dated 14.05.2023. There was a specific pleading that he had obtained printed election form from the first defendant Society and after complying with all the conditions and formalities formulated therein, he has submitted the same. He would state that he was totally surprised and taken aback when the eighth defendant, who is also a member of the Society, had returned the nomination form in in terms of the letter dated 05.06.2023. The bar seems to be in terms of byelaw 12(2) that a member, who is a member in any other executive committee of a Government body is barred from holding the office in the first defendant Society.

4. The plaintiff states that in due compliance with the requirements of the letter dated 05.06.2023, both the institutions had sent an e-mail to the first defendant Society that the plaintiff does not have any connection with the



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institutions referred to in the letter. Alleging that there was no proper election schedule or appointment of an election officer or time for scrutiny or schedule of election, and that 48 hours that had been granted is not enough for campaigning to secure the votes of around 1000 members, the plaintiff has come forward with the suit for the aforesaid relief.

5. After having been served with the summons, the first defendant Society took out an application that there is no cause of action for the suit. According to the first defendant, the elections were conducted strictly in terms of the byelaws and the Societies Registration Act and the Rules made thereunder.

6. The learned Judge dismissed the application on the ground that whether the petitioner is holding an office in other Societies and consequently is disqualified or not is a matter to be gone into at the time of trial. In Para 12 of the order, he has specifically recorded that the Court had sought for a clarification with regard to the byelaws, whether holding of position in some other institution even in the capacity of honorary post disqualifies a person who had given his nomination for the election from contesting the election. He would state that sufficient opportunity had been granted to the first defendant and yet no clarification was forthcoming. Consequently, the learned trial Judge dismissed the application for rejection of plaint, against which the present revision.



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7. Mr.T.Mohan, learned Senior Counsel representing Mr.K.Surender would submit that a perusal of the byelaws, in particular, byelaw Nos.12,13,14 and 15, which has been filed as the plaint documents would show that the elections have been conducted strictly in accordance with the byelaws. He would point out that neither Section 15 of the Societies Registration Act nor Rule 7 of the Societies Registration Rules contemplate the appointment of an election officer and therefore there is no basis on which the plaintiff can proceed with the suit. He would therefore plead that the plaint lacks cause of action and therefore deserves rejection.

8. Insofar as the plea of rejection of plaint is concerned, the Court is sitting on a plea of demurrer. In other words, the Court takes the averments made in the plaint to be true and on that basis proceeds further with the suit. The averments made in Paras 6 and 7 of the plaint specifically state that the plaintiff had submitted his nomination duly filled and he submitted the same to the office of the first defendant. He would further state that he does not incur the bar of Rule 12(2) on account of the fact that he had been in a position to convince the institutions other than the first defendant, of which he has been a member, to intimate to the first defendant that he is not holding any office. He would also state that he does not come within any of the disqualifications in terms of byelaw No.13(1). Therefore, he would allege that he had resubmitted the nomination on 07.06.2023 and it had been delivered on 08.06.2023. On these specific pleadings, the plaintiff would



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point out that on 14.05.2023 only the intimation about the Annual General Meeting had been furnished to the plaintiff.

9. The aforesaid discrepancies set out in Para 6 by the plaintiff were available in the plaint. Whether the Rules or Byelaws or Act did contemplate appointment of election officer etc., are all matters which should be gone into at the time of trial for the fact that, as pointed out above, even I cannot look beyond the plaint and have to take the averments made in the plaint to be true. My reading of the plaint and documents disclose a cause of action. Further, whether the proposer of the plaintiff is a member of a Society is a matter which has to be gone into at the time of trial. The report of the Election Officer that the proposer is not a member cannot be accepted at the stage of rejection of plaint. Such plea requires evidence and hence, I am not willing to interfere.

10. As a result, I do not find any reason to interfere with the order of the learned XXII Assistant Judge, City Civil Court, Chennai dismissing the application for rejection of plaint. The Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Neutral Citation : Yes/No

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V. LAKSHMINARAYANAN, J.

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To

The XXII Assistant Judge
City Civil Court, Chennai.

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19.07.2024