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W.P.No.25216 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.06.2024

Pronounced on : 22.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.25216 of 2022

and

WMP.No.24164 of 2022

Vagarayampalayam Anaithu
Viyabarigal Nala Sangam Covai Mavattam,
Rep. By its President,
Having office at No.11/138, Thotta Salai Street,
Kittampalayam Road,
Vagarayampalayam 641 659,
Coimbatore District

... Petitioner

Vs.

- 1.The Inspector General of Registration,
Office of Registration Department,
No.100, Santhome High Road,
Chennai 600 028
- 2.The Registrar(Administration),
District Registrar Office,
Coimbatore 641 018
- 3.Vaagai Siru Vyabarigal Sangam,
(Dissolved Sangam),
Rep. By its Authorized Signatory,
No.8/216, Gandhi Kadai Veedhi,
Vagarayampalayam, Karumathampatti(via),
Coimbatore 641 659

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of



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India praying to issue a Writ of Certiorarified Mandamus calling for the entire records of the first respondent in pertaining to the impugned order in proceedings No.53078/I3/2017 dated 20.01.2022 and to quash the same as illegal, ultra-vires, violation of principles of natural justice and consequently directing the official respondents to transfer the entire assets of the dissolving Vagai Siru Viyabarigal Sangam (Reg.No.64/1995) as per the Section 42 of the Tamil Nadu Societies Registration Act, 1975 by forthwith in favour of the petitioner's sangam.

For Petitioner : Mr.T.Mohan,
Senior Counsel
for Mr.MA.P.Thangavel

For Respondents
For R1 & 2 : Mr.S.Arumugam,
Government Advocate

For R3 : Mr.C.Prakasam

ORDER

This writ petition has been filed challenging the proceedings of the first respondent dated 20.01.2022 thereby allowing the appeal filed by the third respondent and ordered to revive the third respondent under Section 45(5) (b) of the Tamilnadu Societies Registration Act.



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2. The petitioner is the registered society vide Reg.No.64 of 1995. Due to improper functioning of the office bearers of the third respondent, without conducting any election to the association and non submission of returns / reports to the Office of the Registrar of Societies, the third respondent association was dissolved by the proceedings dated 23.08.1998 on the file of the first respondent and the same was also published in the Tamilnadu Government Gazettee 49 as per Section 44(4) of the Tamilnadu Societies Registration Act. While the third respondent was active, property was purchased to an extent of 5 cents by registered sale deed dated 14.06.1995 vide document No.1130 of 1995. The sale consideration was paid from the contributions made by the members of the association. It had fixed deposits in the Indian Bank, Vagarayampalayam Branch, Coimbatore. Thereafter, some of the members of the third respondent formed new association i.e. the petitioner on 23.02.2012. In fact, as against the proceedings of the first respondent dated 23.08.1998, the third respondent also filed appeal before the Government and the same was also dismissed by the order dated 04.04.2014. In the meanwhile, the petitioner made representation to appoint a liquidator to manage the assets of the third respondent.



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However, it was not considered and as such, the petitioner had filed writ petition in WP.No.7565 of 2015 for direction to the respondents to appoint a liquidator to manage the assets of the third respondent. The third respondent suppressing the said fact that already appeal was filed and the same was dismissed by the Government dated 04.04.2014, once again appeal was filed before the first respondent and the same was ordered to revive the third respondent association and also permitted to file annual returns and statements for the period in which the third respondent failed to submit annual returns / statements.

3. The learned Senior Counsel appearing for the petitioner submitted that the third respondent already challenged the Gazette publication dated 17.12.2003 thereby published the dissolved proceedings of the third respondent dated 23.08.1998 under Section 44(4) of the Tamilnadu Societies Registration Act by way of appeal under Section 44(5)(a) of Tamilnadu Societies Registration Act, 1975. It was dismissed by the first respondent by order dated 03.02.2014. Aggrieved by the same, the third respondent also filed appeal before the Government and the same was rejected by order dated 04.04.2014. Under Section 44(6) of



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the Tamilnadu Societies Registration Act, it was challenged before this Court in WP.No.13797 of 2014 and the same was also dismissed as withdrawn by an order dated 05.03.2019. Therefore, the order dated 04.04.2014 thereby confirming the order of dissolving the third respondent by the first respondent dated 17.12.2003 became final. Now once again, the third respondent without disclosing those facts, simply filed appeal before the first respondent and the same was also allowed by the order impugned dated 20.01.2022 in this writ petition.

3.1 He further submitted that while District Registrar conducted inspection of the third respondent, there was no general body meeting continuously conducted from 1995 to 2013 and there was no audit by Accountant General in respect of profit and expenditure of the society. It was also not properly maintained and filed any statement and it is clear violation of the provision under Section 16(1)(2)(3) of the Tamilnadu Societies Registration Act, 1975. Therefore, the Government rightly rejected the appeal filed by the third respondent in the earlier round. It was not dismissed only on the ground that the appeal was preferred belatedly but also on merits.



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4. The second respondent filed counter and it revealed that while the writ petition in WP.No.7565 of 2015 was pending before this Court, it was recorded that the third respondent had filed restoration petition for their association and the third respondent was restored after detailed enquiry conducted by the third respondent. Therefore, the earlier orders became invalid. The petitioner filed petition before the second respondent and the same was enquired and passed order on 22.02.2021.

4.1 As per the said order, the third respondent submitted application before the second respondent for revival of its association. After due enquiry, the second respondent passed order dated 22.02.2021 thereby concluded that the third respondent has involved in civil activities by providing donation to various temples providing relief fund for the tsunami affected persons and also cyclone. From the date of registration of the third respondent, they are maintaining the records properly and it is functioning continuously though it was resolved as defunct society. Further concluded that the third respondent society became defunct only because of non submitting the yearly accounts and statements. Further,



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from the year 1995 to 2017, the third respondent maintained accounts properly. Therefore, revival of the third respondent was recommended. On receipt of the said recommendations, the first respondent conducted detailed enquiry and passed order dated 20.01.2022 thereby restored the third respondent and directed to function as per the Tamilnadu Societies Registration Act. Thereafter on 21.03.2022, the Sub Registrar, chit and society had scrutinised the accounts of the third respondent and submitted report saying that the third respondent is functioning as per Tamilnadu Societies Registration Act and Rules by paying the delay fees for submitting the accounts to the Government. The said report was also sent to the first respondent on 25.05.2022.

5. That apart, on perusal of the counter filed by the third respondent, the petitioner has no locus to challenge the order passed by the first respondent. Permission was obtained from the Government by relaxing the delay in GO(D) No.188 Commercial Tax and Registration Department dated 14.10.2019 for preferring appeal under Section 44(5) of the Tamilnadu Societies Registration Act, 1975. In fact the said order was passed on receipt of reports stating that the third respondent



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association is functioning by maintaining proper accounts and also on receipt of the audit report. Further, the third respondent undertook to pay dues, if any, to the Government. Accordingly, the third respondent filed appeal before the first respondent and after due enquiry, the order has been passed. Though members of the petitioner association were the members of the third respondent, they were expelled from the third respondent's association.

6. That apart the person, who sworn the affidavit, who is claiming to be the President of the petitioner, is no way connected with the third respondent and he is not a trader. He is a homeopathy practitioner without any valid qualification. Therefore, more than 10 cases were registered against the petitioner and the petitioner is facing prosecution. Only intention of the petitioner is to grab the property of the third respondent and filed this writ petition. Therefore, the writ petition is devoid of merits and liable to be dismissed.

7. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to



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Neutral Citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
lok

G.K.ILANTHIRAIYAN, J.

lok

- To
- 1.The Inspector General of Registration,
Office of Registration Department,
No.100, Santhome High Road,
Chennai 600 028
 - 2.The Registrar(Administration),
District Registrar Office,
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 - 3.Authorized Signatory,
Vaagai Siru Vyabarigal Sangam,
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