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W.P.No.37361 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.37361 of 2024 and
W.M.P.No.40374 of 2024

E.Palani

...Petitioner

Vs.

1. The Registrar of Societies
(Joint-I, Sub-Registrar)
Jawan Bhavan
Vellore Road,
Tiruvannamalai
Tiruvannamalai District-606 601.

2. The Veerabhadiraswami Kurumans
Mud Management Society
Election Committee
No.68, Thirumanchanakopura Street
Tiruvannamalai-606 601
Tiruvannamalai District.

..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ o Mandamus, directing the 1st respondent herein to take appropriate legal action as against the 2nd respondent society in accordance with the provisions of Tamilnadu societies Registration Act 1975 by conducting an inquiry and inspection of the affairs of the 2nd respondent society namely Veerabhadiraswami kurumans Mud Management society, Tiruvannamalai.



W.P.No.37361 of 2024.

For Petitioner
For respondent

: Mr.J.Selvarajan
: Mr.C.Sathish for R1
Government Advocate

ORDER

The writ petition is filed seeking a direction to 1st respondent to take appropriate action against the 2nd respondent in accordance with the provisions of Tamil Nadu Societies Registration Act, 1975 by conducting enquiry.

2. It is the case of the petitioner that he is the Secretary of the 2nd respondent society having been elected in proper election conducted on 25.02.2024 as per the by-laws of the said society. It is further stated by the petitioner that petitioner and other office bearers are entitled to hold office for three years and in the meantime, some of the members attempting to conduct fresh election for the managing committee by issuing hand bills on 01.12.2024 in violation of by-laws of the society. Therefore, the petitioner submitted a representation before the 1st respondent on 03.12.2024 requesting 1st respondent to conduct a enquiry into the affairs of the society.



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3. The Full bench of this Court in the case of ***C.M.S.Evangelical Suvi David Memorial Higher Secondary School Committee, Karisal through its Secretary, Sri S.David Stephen, Karisal, Ambasamudram Taluk, Tirunelveli District and others Vs. The District Registrar Cheranmahadevi, Tirunelveli District and others (W.A.Nos.2969/2001, 331/2002 and 217/2004, dated 24.03.2005), reported in 2005(2) CTC 161*** already held that 1st respondent has no power to go into the validity or otherwise of the elections conducted in the registered societies. The relevant portion of the said decision is extracted as under.

“20. As the power of the Registrar to hold enquiry is only to arrive at a prima facie conclusion as to the correctness of the particulars given in Form VII, the provision of sub-section(9) of Section 36 should also be understood to mean that he could issue such directions to the registered society or any of the member of the society only with reference to the details furnished in Form VII. It must also be borne in mind that the enquiry under Section 36 is not only limited to the regular affairs of the society and such affairs not only include the constitution of a registered



WEB COPY



W.P.No.37361 of 2021.

*society but also to the working and financial condition, and hence, the power of the Registrar to issue such direction under sub-section (9) of Section 36 of the Act, in regard to the constitution of the registered society must be understood in the context of Form VII. Section 14 obligates the registered society to maintain a register containing the names, addresses and occupations of its members. Section 15 further mandates such registered society shall file with the Registrar a copy of the register maintained by it under Section 14 and from time to time file with the Registrar notice of any change among the members of the committee. In the absence of failure to comply with Section 14, the Registrar could only resort to the power under Section 37 to cancel the registration. **Hence, the power under sub section (9) of Section 36 cannot be stretched to a power on the Registrar to direct the registered society to hold fresh election.** A direction to hold fresh election would amount to indirectly setting aside the earlier election and such power is not conferred on the Registrar under any of the provisions of the Act. So long as the election is not declared invalid in the manner known to law, no direction for fresh election could be ordered. Validity*



WEB COPY



W.P.No.37361 of 2021.

of the election could very well be decided only by the competent Civil Court as the parties are entitled to let in their evidence to sustain their respective claims. In the event the Registrar satisfies himself as to the particulars furnished in Form VII as correct, he should enter the names in the register maintained for that purpose. In the event if he does not satisfy as to the particulars and thereby does not accept Form VII, he has to issue a direction relegating the parties to approach the Civil Court for appropriate orders and thereafter shall act as per the orders of the Civil Court. Accordingly, the issue is answered. Post the Writ Appeals for disposal accordingly”.

4. A close reading of above case law would make it clear that 1st respondent cannot consider the validity or otherwise of election. The main grievance of the petitioner is some of the members are attempting to conduct election in violation of bye-laws of the society. The validity of election process shall be agitated before Civil Court, which is empowered to decide the same. The 1st respondent has no power to go into the question whether the proposed election is in violation of the bye-laws or not. Therefore, this Court is not



W.P.No.37361 of 2024.

inclined to issue any positive direction to the 1st respondent to consider the representation submitted by the petitioner.

5. Accordingly, the writ petition stands dismissed. However, it is open to the petitioner to approach the Civil Court for redressal of his grievances. No costs. Consequently, the connected miscellaneous petition is closed.

06.12.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To
The Registrar of Societies
(Joint-I, Sub-Registrar)
Jawan Bhavan
Vellore Road,
Tiruvannamalai, Tiruvannamalai District-606 601.



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S.SOUNTHAR, J.

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