



W.P(MD)No.2058 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2058 of 2023

and

W.M.P.(MD)Nos.1836 and 24150 of 2023

1.A.Ramalingam

2.B.Rajamoni

... Petitioners

Vs.

1.The Inspector General of Registration,
(Registration and Societies),
Santhome High Road, Chennai.

2.The District Registrar (Registration and Societies),
District Registrar Office,
Kanyakumari District @ Nagercoil,
Kanyakumari District.

3.R.Nagarajan

4.The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.

... Respondents

*(R4 is suo motu impleaded vide order dated
12.03.2024 in W.P.(MD)No.2058 of 2023 by GRSJ)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings of the 2nd Respondent in his proceedings in Na.Ka.No.6355/A2/2021 dated 23.01.2023 and quash the same as illegal and



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further direct the 2nd respondent to register the Form VII dated 13.10.2021 submitted by the petitioners forthwith.

For Petitioners : Mr.V.Meenakshisundaram

For Respondents : Mr.C.Satheesh,
Govt. Advocate for R1 & R2.

Mr.Albert James,
Govt. Advocate (Crl. Side) for R4.

No appearance for R3.

ORDER

Heard the learned counsel for the writ petitioners, the learned Government Advocate for the respondents 1 and 2 and the learned Government Advocate (Crl. Side) for the fourth respondent. The third respondent has been served and he had also entered appearance through counsel but there is no representation on his behalf.

2.The case on hand pertains to the affairs of a registered society by name Vadaku Saliyar Samuthaya Munnetra Sangam. It was registered in December 2008 under Tamil Nadu Act No.27 of 1975 (Registration No.151/2008). The tenure of the Executive Committee had expired. The civil suits filed with



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regard to the same had also been dismissed for default. The petitioners contend that since there was vacuum in the administration of the society, they have a requisition for convening extraordinary general body meeting. Since the requisition was not acted upon, the petitioners gave notice for convening meeting on 10.10.2021 in their community hall. Notice is dated 16.09.2021. The petitioners claim that on said date, new set of officers was elected. Form VII was submitted on 13.10.2021. By the impugned order, the second respondent declined to take the Form VII on file. Challenging the said communication dated 23.01.2023, the present writ petition came to be filed.

3.The learned counsel for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He pointed out even though all the relevant materials were very much on record and the same had also been duly taken note of by the second respondent earlier, in the impugned order, it had been erroneously stated that the petitioners have not furnished any proof to show that extraordinary general body meeting was actually convened on 10.10.2021. He called upon this Court to set aside the impugned communication and grant relief as prayed for.



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4.The learned Government Advocate for the official respondents submitted that the present writ petition is not maintainable and that if the petitioners feel aggrieved, their only remedy is to go before the jurisdictional Civil Court. He pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. It is stated that the total number of members of the society is 809. I wanted to know as to how the publication regarding convening of extraordinary general body meeting was published. The learned counsel for the writ petitioners submitted that notice dated 16.09.2021 was served by local delivery and by affixture on the notice board of the society. The learned counsel draws my attention to Rule 25(2) of the Tamil Nadu Societies Registration Rules, 1978 and submitted that the statutory requirement was fully complied with in this case. Rule 25(2) & (3) reads as follows:-

“25. Notice of annual general meeting to members.—

(1)

(2) The notice shall be sent to the members by one or more of the following modes,namely:—

(a) by local delivery; or

(b) by post; or

(c) by circulation among the members; or



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(d) by publication through Press.

(3) The notice shall also be affixed to the notice board of the society.”

6.The contention advanced by the learned counsel for the petitioners can work both ways. It is true that the statute provides for sending of notice of the general body meeting in any one or more of the modes set out therein. In this case, the petitioners claim that it was done through local delivery. While such course of action is very much available to the requisitionists, if question arises, the burden to show that it was actually done so would fall on the claimant. In writ proceedings, evidence cannot normally be adduced. I may have to relegate the petitioners to go before the jurisdictional Civil Court to prove their claim that notice was sent through local delivery to all the members. I am therefore not inclined to interfere with the impugned communication issued by the second respondent.

7.At this stage, the learned counsel for the petitioners pointed out that the society is having a number of properties which includes as many as 76 shops. He states that the tenants are having a field day. He, therefore, called upon this Court to issue directions so as to ensure that the general body meeting is convened for electing a new set of office bearers. I find force in the said



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request. I appoint Mr.M.Beema Rao (MS No.3086/2016), No.182, Law Chambers, High Court Buildings, Madurai - 635 023, Cell:8012262248, advbeemaraoramji@gmail.com) as Advocate Commissioner. The Advocate Commissioner shall collect the members list from the second respondent within a period of seven days from the date of receipt of a copy of this order. The extraordinary general body meeting will be held on 27.04.2024 at 10.00 am. The venue shall be Kudumi Saliyar Samuthaya Nala Koodam, Arattu Road, Vedaseri. The second respondent will appoint an observer to be present throughout the meeting. Publication will be effected in Kanyakumari edition of Daily Thanthi. Publication shall be made on 28.03.2024. The publication shall be of reasonable size so as to attract the attention of the readers. In respect of those members who are found to reside outside Kanyakumari District, notices shall be sent through RPAD. The entire cost of convening the meeting including publication and postal expenses shall be borne by the petitioners herein. The Advocate Commissioner shall raise invoices and the same shall be honoured immediately by the first petitioner herein. A sum of Rs.25,000/- (Twenty Five Thousand Rupees Only) shall be paid as remuneration to the Advocate Commissioner. The petitioner shall also bear the Advocate Commissioner's conveyance, stay and other incidental expenditure. Since the election is going to be conducted by the Advocate Commissioner appointed by



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this Court and since the entire election will be held in the presence of the observer to be appointed by the second respondent, Form VII to be submitted by the newly elected office bearers shall be taken on file by the second respondent. The jurisdictional Police (fourth respondent) shall provide appropriate bandobast on the election day.

8.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

12.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 15.03.2024.

To:-

- 1.The Inspector General of Registration,
(Registration and Societies), Santhome High Road, Chennai.
- 2.The District Registrar (Registration and Societies),
District Registrar Office, Kanyakumari District @ Nagercoil,
Kanyakumari District.
- 3.The Inspector of Police, Vadaseri Police Station, Kanaykumari District.



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G.R.SWAMINATHAN, J.

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**12.03.2024
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