



W.P(MD)No.3872 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3872 of 2023

and

W.M.P.(MD)Nos.3722 & 3723 of 2023

P.Gladys Lily Paulsamy

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai.

2.The District Registrar of Societies,
Marthandam,
Kanyakumari District.

3.The Secretary,
Friends of Kottar,
Reg.No.9/1980,
Annai Velankanni College Campus,
Tholayavattam,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the order registering the amended / added memorandum of 3rd respondents society on 09.10.2015 and quash the same and consequently direct the 3rd respondent to hold an enquiry on the petitioners complaint dated 21.12.2022 in terms of section 36 of the Tamil Nadu Societies Registration Act 1975.



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For Petitioner : Mr.R.Anand

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1 & R2

: Mr.K.Govindarajan
for Mr.B.Briesh Kishore for R3

ORDER

Heard both sides.

2. There were two registered societies namely Friends of Kottar (Registration No.9/1980) and Annai Velankanni College Administrative Society (Registration No.25/1989). The first question that calls for consideration is whether the said two societies were rightly amalgamated. Section 30(1) of the Tamil Nadu Societies Registration Act, 1975 is as follows:-

“30. Amalgamation and division of registered societies:-

(1) Any two or more registered societies may with the prior approval of the Registrar, by special resolution of both or all such registered societies, become amalgamated together as one society, with or without any dissolution or division of the funds of those registered societies or any of them.”

This should be read in conjunction with Rule 28 of the Tamil Nadu Societies Registration Rules, 1978. A learned Judge of this Court vide order dated



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13.01.2020 in W.P.No.21277 of 2013(Manurkula Devanga Vasaga Salai Vs. Inspector General of Registration) had explained the meaning of the aforesaid provision. His Lordship had categorically laid down that before passing special resolution for amalgamation, the societies must obtain prior approval of the registrar. The said decision was upheld by the Hon'ble First Bench in the decision reported in (2023) 1 LW 870 (Manukula Devanga Vasaga Salai Vs. Inspector General of Registration). In this case, Annai Velankanni College Administrative Society passed the special resolution for amalgamation on 16.07.2015 and Friends of Kottar passed resolution on 18.09.2015. This was approved by the District Registrar Administration, Marthandam on 25.09.2015. It is beyond dispute that passing of the resolution was without the prior approval of the District Registrar. I therefore come to the conclusion that amalgamation of the two societies was not in order.

3. Section 30(3) of the Tamil Nadu Societies Registration Act is as follows:-

“30(3).No amalgamation or division of a registered society under sub-section (1) or sub-section (2), as the case may be, shall have any effect until and unless the new society or societies is or are duly registered in accordance with the provisions of the Act.”

Applying the aforesaid statutory mandate, I hold that the proceedings dated 25.09.2015 issued by the second respondent herein is of no legal consequence.



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The result is that there will be revival of the earlier societies. Of-course, the acts done during the intervening period cannot be said at naught. This is because, the petitioner chose to approach this Court only in February 2023. It is of-course open to the two societies to approach the second respondent and after getting his prior approval, pass special resolutions for amalgamation. Even thereafter the amalgamated society will have to comply with the statutory mandate set out in Section 30(4) of the Act. The said provision is as follows:-

30(4). Upon the registration of the new society or societies, as the case may be, the assets and liabilities of the original registered society or societies shall, subject to the provisions of Section 18, be transferred to and be the assets and liabilities of the new society or societies, in the manner specified in the special resolution mentioned in sub-section (1) or sub-section (2), as the case may be.

4. This Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

20.03.2024

Index : Yes / No
Internet : Yes/ No
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To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai.



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2.The District Registrar of Societies,
Marthandam,
Kanyakumari District.



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G.R.SWAMINATHAN, J.

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