



W.A.(MD).Nos.464 to 466 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:23.10.2024

CORAM :

**THE HON'BLE MRS. JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD).Nos.464, 465 and 466 of 2019
and
C.M.P.(MD).Nos.3869 and 3870 of 2019

W.A.(MD).No.464 of 2019:

Kalpothu Muthalipatti Nadar Uravinmurai,

(Registration No.26 of 2010)

represented by its Secretary,

Door No.165,

P.C.Complex,

Chithirakara Street,

Madurai-625 001.

... Appellant

Vs.

The Registrar of Societies,

Madurai Road,

Virudhunagar

... Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 19.02.2019, passed in W.P. (MD).No.19744 of 2015.



W.A.(MD).Nos.464 to 466 of 2019

For Appellant : Mr.J.Barathan

For Respondent : Mr.P.Subbaraj
Special Government Pleader

W.A.(MD).No.465 of 2019:

1.P.Panneerselvam

2.P.Dharmaraj

... Appellants

Vs.

1.Sree Arunachaleswarar Vidyasala

Middle School Managing Committee,
(Registration No.5 of 2004)

represented by its Secretary,

K.Vinayagamurthy,

S/o.V.Kasirajan

Door No.2/190,

Kalpothu Muthalipatti,

Sivakasi Taluk,

Virudhunagar District.

2.The District Registrar of Societies,

Madurai Road,

Virudhunagar.

3.The District Elementary Educational Officer,

Virudhunagar District,

Virudhunagar.

... Respondents



W.A.(MD).Nos.464 to 466 of 2019

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 19.02.2019, passed in W.P.(MD).No.23192 of 2017.

For Appellants : Mr.J.Barathan

For Respondents : Mr.R.Murali (for R1)

Mr.P.Subbaraj (For R2 and R3)

Special Government Pleader

W.A.(MD).No.466 of 2019:

S.Panneer Selvam

... Appellant

Vs.

1.Sree Arunachaleswarar Vidyasala

Middle School Managing Committee,

(Registration No.5 of 2004)

represented by its Secretary,

K.Vinayagamurthy,

S/o.V.Kasirajan

Door No.2/190,

Kalpothu Muthalipatti,

Sivakasi Taluk,

Virudhunagar District.

2.The Registrar of Societies,

Madurai Road,

Virudhunagar.

... Respondents



W.A.(MD).Nos.464 to 466 of 2019

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 19.02.2019, passed in W.P.(MD).No.23225 of 2015.

For Appellant : Mr.J.Barathan
For Respondents : Mr.R.Mulali (for R1)
Mr.P.Subbaraj (For R2 and R3)
Special Government Pleader

JUDGMENT

[Order of the Court was made by **Mr.K.K.RAMAKRISHNAN, J.**]

This intra court appeals have been filed challenging the writ court orders in W.P.(MD).Nos.19744 of 2015, 23192 of 2017 and 23225 of 2015, dated 19.02.2019.

2.The facts of the case:

2.1.In Kalpothu Muthalipatti village, there is a school namely, Sree Arunachaleswarar Vidyasala Middle School, and the same was managed by namely, Sree Arunachaleswarar Vidhyasala Middle School Managing Committee, Kalpothu Muthalipatti. The said school was started in the year 1929. The said Committee was elected by the members of the “Kalpothu Muthalipatti Nadar Uravinmurai”. That being the situation, as per the requirement of the law and the requirement of the statue, the said



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Kalpothu Muthalipatti Nadar Uravinmurai Sangam was registered in the name of Sree Arunachaleswarar Vidhyasala Middle School Managing Committee, Kalpothu Muthalipatti, in the Registration No.5 of 2004 under the Tamil Nadu Societies Registration Act, 1975. Bylaws stated that the committee should be selected by the members of the “Kalpothu Muthalipatti Nadar Uravinmurai”.

2.2.Subsequently, the appellant in order to maintain the school registered the society in the name of Kalpothu Muthalipatti Nadar Uravinmurai, under the Tamil Nadu Societies Registration Act,1975, before the Registrar Societies, Madurai South, Madurai, with registration No.26 of 2010, on 17.02.2010. Thereafter, the members of the said society No.26 of 2010 selected the committee members of Sree Arunachaleswarar Vidhyasala Middle School Managing Committee.

2.3.Subsequently, the expelled members of the appellant society in W.A.(MD).No.464 of 2019 registered another society with the same name before the respondent in W.A.(MD).No.464 of 2019, on 24.03.2010 and Registration No.107 of 2010 was assigned. Thereafter, the appellant society filed writ petition in W.P.(MD).No.13164 of 2012 before this



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Court to cancel the said registration on the ground that there is a bar under Section 9 of the Tamil Nadu Societies Registration Act, 1975, to register two societies in the same name and the same also amounts to offence. The said writ petition was allowed by writ Court, dated 03.01.2013 and the same was confirmed by the division bench of this Court.

2.4.Parallely, pending the above proceedings, both the appellant and the respondents themselves conducted the Annual General Body meeting and submitted Form VII before the Registrar of the Societies, Madurai Road, Virudhunagar, to approve the same and the registrar of the societies, on 29.10.2015 returned the said form and advised to approach the civil Court. Challenging the same, the first respondent in W.A(MD).No.465 of 2019, filed the writ petition before this Court in W.P.(MD).No.23225 of 2015 along with stay petition and this Court granted stay. Challenging the same, the secretary of the appellant society filed writ appeal in W.A.(MD).No.38 of 2016 along with prayer for ad interim injunction and the stay petition and the same were considered by the Division Bench of this Court and granted stay and injunction.



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2.5. Pending the same, the private respondents filed the writ petitions in W.P.(MD).Nos.19744 and 23225 of 2015 and 23192 of 2017 before this Court challenging the rejection of the Form VII. All were clubbed together and taken into consideration and the learned single judge of this Court also had held that the appellant has no right to file form VII. The respondent society is the jurisdictional society and hence, they alone have right to file form VII on behalf of the society bearing Registration No.5 of 2004. Therefore, registrar had acted mechanically by returning form VII. Therefore, the impugned order was quashed and the matter was remitted to the first respondent to pass fresh order in accordance with law. The first respondent was permitted to satisfy himself whether the Form VII is in respect of the society. The learned judge also held that three bodies are claiming ownership and control over the Educational Institution namely Sree Arunachaleswarar Vidhyasala Middle School, which is being run at Kalpothu Muthalaipatti and further stated that the acceptance of form VII submitted by any society cannot by itself have any leverage, in the matter of the approval or recognition at the hands of the District Element Educational Office, Virudhunagar. The claimants will have to independently establish their claim before the jurisdictional civil Court in an appropriately instituted suit. Finally



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learned judge dismissed the writ petition in W.P.(MD).No.19744 of 2015, filed by the appellant and partly allowed the writ petition in W.P.(MD).No.23225 of 2015 filed by the first respondent with direction to the first respondent to consider the Form VII of the private respondent herein. Aggrieved over the same, the appellants and others filed the present writ appeals.

3.The appellant made the following submissions:

The society is registered earlier to the third respondent society. This Court already declared as third respondent society as invalid one. The appellant's formVII was already accepted by the authorities and they acted as the recognized members of the society. Therefore, learned judge also without taking into consideration of the petitioner's request, closed his representation regarding the acceptance of the form VII, which is not correct. The learned Judge also committed jurisdictional error in remanding the matter to consider the third respondent society, which not at all existed. It belongs to the ten members of the family and they intended to hijack the property of the Educational Institution, leaving the majority of the people.



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3.1.The learned counsel further submitted that the learned Judge passed an order declaring that the appellant has no right to file the form VII. Only the third respondent has power to submit the form VII. This is not in accordance with the law. Therefore, he seeks to set aside the same.

4.The learned counsel appearing for the first respondent in W.A. (MD).No.465 of 2019 submitted that even though they registered in the year 2010, the appellant society members are not the villagers of the said Kalpothu Muthalaipatti. They all colluded together and taken the management of the school, without any legal right. Therefore, the learned Judge has correctly held that they have no right to submit the form VII and this respondent alone has right to submit the form VII. There is no error in the said approach of the learned Judge. The third respondent is the member of the village and he only has right over the management of the school. The learned counsel further submitted that after the declaration of the learned single Judge that the society registered by them was illegal and writ appeal was preferred and in the writ appeal, there liberty was given to submit the registration in some other name. The same was submitted in some other name and the society was formed. Therefore, they have right to submit the form VII. The authority, without



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looking into the same, simply stated that form VII submitted by both groups and the civil Court alone could decide the issues. He further submitted that as per the finding of the learned judge and also there is no evidence to prove that the appellant society is not valid society and hence, the learned Judge correctly discussed the issues that he has no authority to hold as office bearers of the society. Hence, he seeks for the dismissal of writ appeals.

5.This Court considered the trial submissions made on either side and perused the records and earlier proceedings that took place between the parties.

6.Admittedly, the unregistered body namely, Kalpothu Muthalipatti Nadar UravinMurai have been existing for more than 100 years. The said Uravinmurai also owns school namely Sree Arunachaleswarar Vidyasala Middle School at Kalpothu Muthalipatti. The said school was started in the year 1929. The school was managed by the unregistered body. The member of the said unregistered body, there was no record produced by either of the party to show that the appellant and respondents are the members of the said unregistered body.



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The party to the proceedings admitted the registration of the said Sree Arunachaleswarar Vidyasala Middle School Managing committee Registration No.5 of 2004 dated 27.01.2004. They also admitted the following provisions of the bylaw:

8.இந்த பள்ளிக் கமிட்டியானது கல்போது முதலிபட்டி நாடார் உறவின்முறையின் மூலம் பெரும்பான்மையின்பேரில் நிறைவேற்றப்படும் தீர்மானத்திற்குக் கட்டுப்பட்டதாகும்.

9.தீர்மானங்கள் நிறைவேற்றுதல், பள்ளியை நிர்வகித்தல், ஆசிரியர் நியமனம் முதலானதுகளில் ஏதேனும் விவாதங்கள் கருத்து வேறுபாடுகள் ஐயங்கள் எழாமாயின் கல்போது முதலிபட்டி நாடார் உறவின்முறையால் கொண்டுவரப்படும் சிறப்புத் தீர்மானம் மூலம் முடிவு செய்யப்பட வேண்டும்.

7.Now, the dispute is who are the Kalpothu Muthalipatti Nadar Uravinmurai. Both the parties claimed that they are the Kalpothu Muthalipatti Nadar Uravinmurai. The appellant registered the society in the name of Kalpothu Muthalipatti Nadar Uravinmurai, with the Registration No.26 of 2010. Subsequently, the first respondent Society registered the same bearing Registration No.107 of 2010. Even though the appellant filed a writ Petition in W.P.(MD).No.13164 of 2012



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declaring the Registration No.107 of 201, as null and void, this Court declared the society as null and void. Aggrieved over the same, the respondent filed the writ appeal in W.A.(MD).No.363 of 2013 and the writ Court disposed of the same granting liberty to register the society in some other name. Subsequently, the respondent Society registered the society in some other name. In the meantime, both the parties submitted the form VII. Therefore, the contention of the appellant namely registered society bearing registration No.26 of 2010 that the authority has no right to refer the matter to civil dispute on the grounds that there was no rival claim among the members of the registered society bearing registration No.26 of 2010 appealable. But, the grievance of the respondent, who also got registration in some other name and claimed that they are the original Kalpothu Muthalipatti Nadar Uravinmurai. In the said circumstances, even though the learned writ Court found that the form VII submitted by the registered society bearing registration No.26 of 2010 is not valid on the grounds that they have no *locus standi* to file the form VII is erroneous, they have no right to hold the post of management when the respondent also claimed that they are the members of the Kalpothu Muthalipatti Nadar Uravinmurai. The dispute is purely a civil dispute between the two groups, who are entitled to manage the school and



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whether they are the original Kalpothu Muthalipatti Nadar Uravinmurai and the same has to be resolved before the civil Court. In the said circumstances, the order of the learned Single Judge that the appellant has no right to submit the form VII is not correct. Same way, recognizing the right of the respondent Society is also erroneous. More particularly, when the appellant's form VII was accepted and the same was also observed by the learned Judge and there was no accrued right on the date of the submission of the form VII to the Respondent Society, this Court inclines to set aside the learned Single Judge's order. The observation of the learned single Judge that the appellant Society has no right to submit the form VII is not correct and the same is liable to be set aside. The order of the learned single Judge conferring the right of the private respondent, who got registered subsequently in some other name, after the declaration of their Society registered No.107 of 2010 is null and void, has no locus to submit the form in view of the dispute between both the appellant Society and the third Respondent who are the “real Kalpothu Muthalipatti Nadar Uravinmurai”.

8.In view of the dispute between both the groups, who are the “real Kalpothu Muthalipatti Nadar Uravinmurai”, in the interest of the



Educational Institution, which is a prestigious institution started in the year 1929, this Court is inclined to appoint the Administrator to the school to resolve the dispute between the two parties. This Court feels that this is an extraordinary circumstance in the extraordinary situation of the case and the Constitutional Court has power to mould the Law so as to serve the needs of time in order to maintain peace in the administration of education agency and welfare of the Nadar Uravinmurai adopting the law laid down by the Hon'ble Supreme Court in the following cases:

<i>Lord Denning once said:</i>	<i>B.P.Achala Anand v. S. Appi Reddy, (2005) 3 SCC 313</i>	<i>Prithipal Singh v. State of Punjab: 2012(1)SCC10</i>
<i>“Law does not stand still; it moves continuously. Once this is recognised, then the task of a judge is put on a higher plane. He must consciously seek to mould the law so as to serve the needs of the time.”</i>	<i>9.Further, the Hon'ble Supreme Court in held as follows: “Unusual fact situation posing issues for resolution is an opportunity for innovation. Law, as administered by courts, transforms into justice. The law does not remain static. It does not operate in a vacuum. As social norms and values change, laws too have to be reinterpreted, and recast. Law is really a dynamic instrument fashioned by society for the purposes of achieving harmonious adjustment, human relations by elimination of social tensions and conflicts.</i>	<i>“50.Extraordinary situations demand extraordinary remedies. While dealing with an unprecedented case, the Court has to innovate the law and may also pass an unconventional order keeping in mind that an extraordinary fact situation requires extraordinary measures.”</i>



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9.Since both groups have been spending majority of time and their energy to rule over the administration of the Educational Institution without taking interest of Uravinmurai collective interest, there was chaos in administration. Therefore, this extraordinary situation arises and the same warrants the appointment of the Administrator. Now, the question is who is competent person to be appointed as Administrator since this institution belongs to the Nadar community. This Court inclined to appoint an Advocate, who belong to the said community Mr.V.Sasikumar, Advocate, 28-Kasim Residency, Y.Othakadai, Madurai, as Administrator of the said school. This Court issues direction to Mr.V.Sasikumar as Administrator to render this service to his community without receiving any remuneration. Hence, these writ appeals are allowed in the following terms:-

9.1.The order passed in W.P.(MD).Nos.19744 of 2015, 23192 of 2017 and 23225 of 2015, dated 19.02.2019, is set aside.

9.2.The order of the official Respondent is in accordance with law.

9.3.Mr.V.Sasikumar, Advocate, 28-Kasim Residency, Y.Othakadai, Madurai, is appointed as the Administrator of the said school. The Administrator has every power to manage the school.

9.4.The school authority is directed to cooperate with the



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Administrator as per law.

Consequently, the connected civil miscellaneous appeals are closed.

[P.V.J.,] & [K.K.R.K.J.,]

23.10.2024

NCC :Yes/No

Index :Yes/No

Internet : Yes/ No

vsg



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To:
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- 2.The District Registrar of Societies,
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- 3.The District Elementary Educational Officer,
Virudhunagar District,
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- 4.The Special Government Pleader,
Madurai Bench of Madras High Court,
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