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C.R.P.(MD)Nos.1652, 1653 and 1654 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)Nos.1652, 1653 and 1654 of 2024
and
C.M.P.(MD)Nos.9713, 9715 and 9716 of 2024

C.R.P.(MD)No.1652 of 2024:

Anitha R.Sivanantham Nadar ... Petitioner/1st Respondent/1st Defendant

Vs.

C.Kamaraj Nadar (Died)

1.N.Selvakumar Nadar

2.S.Sundar Raj @ Sundar Nadar

3.P.Rajasekar Nadar

4.K.Usha ... Respondents 1 to 4/Petitioners 1 to 4/
Plaintiffs

5.Dakshinamara Nadar Sangam,
Through its Secretary,
Having Office at
No.70, Sindhupoonthurai Road Street,
Tirunelveli District. ... 5th Respondent/2nd Respondent/2nd Defendant

6.R.K.Kalidhasan Nadar

7.T.Rajakumar Nadar

8.A.Selvaraj Nadar



- 9.V.P.Ramanathan Nadar
- 10.S.K.T.B.Kamaraj Nadar
- 11.Kamaraj Nadar
- 12.S.R.S.Umasankar Nadar
- 13.S.R.Vaithialingam Nadar
- 14.A.Kalyanasundaram Nadar
- 15.S.A.Sivapalan Nadar
- 16.T.Arumuganainaar Nadar
- 17.S.Sivasankar Nadar
- 18.S.S.Chandrasekar Nadar
- 19.S.Selvan Nadar
- 20.S.Nithiyabalaia Nadar
- 21.S.Isakkimuthu @ Ashokan Nadar
- 22.K.Ravindran Nadar
- 23.P.Nadesan Nadar
- 24.M.Thanithangam
- 25.A.Nainar Nadar
- 26.R.Premananth Nadar
- 27.S.Ramasubbu Nadar
- 28.S.Janakar Nadar
- 29.A.P.Sathishkumar Nadar
- 30.P.Selvaraj Nadar
- 31.R.Thangavel Nadar
- 32.K.Palraj Nadar
- 33.S.K.Chellapandi Nadar
- 34.S.K.Radhakrishan Nadar
- 35.A.B.Rakesh Nadar



36.B.Manikavasagam Nadar

37.P.Ragunathan Nadar

38.A.Ashokan Nadar

39.P.Ragavan Nadar

40.D.Soundarraaj Nadar

41.S.Anbulingam Nadar

42.P.S.Kaniraj Nadar ... Respondents 6 to 42 given up /
Respondents 3 to 39/
Proposed Defendants 3 to 39

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order to implead the parties in I.A.No.18 of 2023 in O.S.No.205 of 2022 dated 22.03.2024 on the file of Principal Subordinate Court, Tirunelveli.

For Petitioner : Mr.Parthasarathy,
For Mr.R.Bharanidharan

For Respondents : Mr.K.Govindaajan,
For Mr.D.Venkatesh for R1 to R3.
Mr.V.Raghavacheri, Senior Counsel,
For Mr.Kingly Solomon for R4.
Mr.S.Meenakshmisundaram, Senior Counsel,
For Mr.R.T.Arivukumar for R5.
Mr.H.Arumugam,
For Mr.N.Vignesh for R6.
Mr.S.Parthasarathy, Senior Counsel,
For Mr.S.Packiya Muthu for R7.
Mr.V.S.Rishikesh for R8, 9, 11, 12, 15, 16, 20,
25, 26, 31, 33, 37 & 42
Mr.S.Kumar for R10, 13, 14, 19, 27 to 30,
34, 35 & 39
Mr.T.Mohan, Senior Counsel,
For Mr.Jeb Selvan Newman for R38 & 41

**C.R.P.(MD)No.1653 of 2024:**

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Anitha R.Sivanantham Nadar ... Petitioner/Petitioner/1st Defendant

Vs.

C.Kamaraj Nadar (Died)

1.N.Selvakumar Nadar

2.S.Sundar Raj @ Sundar Nadar

3.P.Rajasekar Nadar

4.K.Usha ... Respondents 1 to 4/Respondents 2 to 5/
Plaintiffs5.E.Bhakyaraj ... 5th Respondent/6th Respondent/6th Plaintiff6.Dakshinamara Nadar Sangam,
Through its Secretary,
Having Office at
No.70, Sindhupoonthurai Road Street,
Tirunelveli District. ... 6th Respondent/7th Respondent/2nd Defendant

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dismissing the application to reject the plaint in I.A.No.80 of 2024 in O.S.No.205 of 2022 dated 22.03.2024 on the file of Principal Subordinate Court, Tirunelveli.

For Petitioner : Mr.Parthsarathy,
For Mr.R.Bharanidharan

For Respondents : Mr.K.Govindaajan,
For Mr.D.Venkatesh for R1 to R3.
Mr.V.Raghavacheri, Senior Counsel,
For Mr.Kingly Solomon for R4.
Mr.S.Meenakshmisundaram, Senior Counsel,
For Mr.R.T.Arivukumar for R6.

**C.R.P.(MD)No.1654 of 2024:**

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Anitha R.Sivanantham Nadar ... Petitioner/1st Respondent/1st Defendant

Vs.

C.Kamaraj Nadar (Died)

1.N.Selvakumar Nadar

2.S.Sundar Raj @ Sundar Nadar

3.P.Rajasekar Nadar

4.K.Usha ... Respondents 1 to 4/Petitioners 1 to 4/
Plaintiffs5.Dakshinamara Nadar Sangam,
Through its Secretary,
Having Office at
No.70, Sindhupoonthurai Road Street,
Tirunelveli District. ... 5th Respondent/2nd Respondent/2nd Defendant

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order to implead the parties in I.A.No.19 of 2024 in O.S.No.205 of 2022 dated 22.03.2024 on the file of Principal Subordinate Court, Tirunelveli.

For Petitioner : Mr.Parthsarathy,
For Mr.R.Bharanidharan

For Respondents : Mr.K.Govindaajan,
For Mr.D.Venkatesh for R1 to R3.
Mr.V.Raghavacheri, Senior Counsel,
For Mr.Kingly Solomon for R4.
Mr.S.Meenakshmisundaram, Senior Counsel,
For Mr.R.T.Arivukumar for R5.



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COMMON ORDER

The cases on hand pertain to the affairs of Tirunelveli Dakshinamara Nadar Sangam. It is a society registered under Tamil Nadu Societies Registration Act, 1975. Election was conducted for electing the members of the executive committee on 31.08.2021. Notification was published on 10.08.2021. Objection was taken that the mandatory 21 days' notice was not given and that therefore, the general body meeting convened on 31.08.2021 was not valid.

2.While so, a group of members requisitioned the President of the society to convene a proper general body meeting on 25.01.2022 since the earlier meeting was not held on 31.08.2021. Since the President did not convene the meeting, the requisitionists themselves announced to hold the meeting on 04.05.2022. Notice to this effect was published on 12.04.2022.

3.Aggrieved by this development, one C.Kamaraj Nadar instituted O.S.No.205 of 2022 on the file of the Principal Sub Court, Tirunelveli for declaration that the meeting proposed to be held on 04.05.2022 was not



legal and for permanent injunction restraining from holding of such a meeting. The suit was instituted on 29.04.2022. Interim injunction was not granted. In these circumstances, the requisitionists claimed to have gone ahead and convened the meeting on 04.05.2022 and elected a set of office-bearers.

4.A fresh Form VII was filed following the said meeting. The District Registrar accepted the fresh Form VII filed in respect of the meeting said to have been held on 04.05.2022 while declining to file the Form VII submitted in connection with the earlier meeting held on 31.08.2021.

5.The original plaintiff passed away and the suit is being prosecuted by persons who got impleaded vide order made in I.A.Nos.70 to 77 of 2024 and I.A.No.78 of 2024.

6.Earlier, two I.As came to be filed. I.A.No.18 of 2023 was filed to implead the persons who were said to have been elected in the meeting held on 04.05.2022. I.A.No.19 of 2023 was filed for amending the plaint.



WEB COPY 7.The contesting defendants filed I.A.No.80 of 2024 for rejection of the plaint on the ground that it has become infructuous.

8.The Court below vide orders dated 22.03.2024 allowed I.A.No.18 of 2023 and I.A.No.19 of 2023. However, I.A.No.80 of 2024 filed for rejection of the plaint was dismissed. Challenging these orders, the aforesaid civil revision petitions came to be filed.

9.C.R.P.(MD)No.1652 of 2024 is directed against the order made in I.A.No.18 of 2023. C.R.P.(MD)No.1653 of 2024 is directed against the order made in I.A.No.80 of 2024. C.R.P.(MD)No.1654 of 2024 is directed against the order made in I.A.No.19 of 2023.

10.Heard the learned counsel for the revision petitioner and the learned senior counsel for the contesting respondents.

11.O.S.No.205 of 2022 was filed on 29.04.2022. Since no injunction was granted, the requisitionists claimed that they proceeded to convene the meeting and elect a new set of office bearers on 04.05.2022.



This is obviously a subsequent development which took place during the pendency of O.S.No.205 of 2022.

12.In the decision reported in **(1974) 1 SCC 675 (Shikharchand Jain Vs. Digamber Jain Praband Karini Sabha)**, it was held that it is open to a Court to take notice of the events which have happened after the institution of the suit and afford relief to the parties in the change of circumstances where it is shown that the relief originally claimed has, by reasons of subsequent change of circumstances, becomes inappropriate and it is necessary to take notice of subsequent events in order to shorten the litigation. In **(Rajesh Kumar Aggarwal Vs. K.K.Modi (2006) 4 SCC 385)**, it was reiterated that the power conferred by Order VI Rule 17 of Civil Procedure Code must be exercised by taking notice of subsequent events in order to shorten the litigation, to preserve and safeguard the rights of both parties and to sub-serve the ends of justice.

13.Applying the ratio laid down above, I hold that the plaintiffs are entitled to seek amendment of the plaint. Unlike in **All India Anna Dravida Munnetra Kazhagam (Amma) Vs. All India Anna Dravida Munnetra Kazhagam (Puratchi Thalaivi Amma) [2024 (1) CTC 287]**,



there is no complete revamp of the entire suit based on the subsequent events and the nature and character of the suit itself would not be altered by the amendment. The Hon'ble Division Bench of the Madras High Court in the said decision observed that a suit against an association of renegade persons was sought to be converted into a suit against a recognized political party thus resulting in a completely a new suit. Such is not the case here and that is why, I hold that the aforesaid decision relied on by the learned counsel for the revision petitioner is not applicable to the facts of this case. I have no hesitation to reject his contention that the suit itself had become infructuous and that only to avert the consequences of rejection of the plaint, amendments have been made.

14.The plaintiffs herein originally prayed that the general body meeting ought not to be conducted. Only because injunction was not granted, nothing stopped the requisitionists from convening the meeting. If amendment is negatived, the plaintiffs would be at liberty to file a fresh suit questioning the election as well as acceptance of Form VII by the District Registrar of Societies. This will only lead to multiplicity of litigation. The Hon'ble Supreme Court in more than one case has held



that Courts have inherent power to take note of subsequent developments and permit amendments so as to avoid multiplicity of litigation. I, therefore, hold that the Court below acted correctly in allowing I.A.No.19 of 2023. In this view of the matter, the order impugned in C.R.P.(MD)No.1654 of 2024 is sustained. As a consequence, the orders impugned in C.R.P.(MD)Nos.1652 and 1653 of 2024 are also sustained.

15. But the matter cannot rest there. The learned senior counsel for the impleaded defendants pointed out that except amending the paragraphs relating to court fees and reliefs, the original plaint remains otherwise untouched. Though the learned senior counsel appearing for the plaintiffs would strongly claim that no meeting was held on 04.05.2022, and that it was a farce of an election, there is no pleading to support this prayer. There is no averment whatsoever regarding what actually happened on 04.05.2022. The eligibility of the impleaded defendants to be members of the executive committee has not been questioned. It is true that in the written statement, it has been pleaded that the meeting was held on 04.05.2022 and certain persons were elected as officer bearers. This averment found in the written statement is not sufficient to frame an issue. Order XIV Rule 1(1) of Civil Procedure



Code states that issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other. The only issue that can be framed in this case is whether the requisitionists were competent to call for general body meeting on 04.05.2022. In other words, the validity of the notification dated 12.04.2022 alone is to be decided. If this question is answered in favour of the plaintiffs, the suit may have to be decreed. The outcome of the suit would rest on the answer to be given on this issue.

16. With these observations, these civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

02.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

The Principal Sub Court,
Tirunelveli.



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C.R.P.(MD)Nos.1652, 1653 and 1654 of 2024

G.R.SWAMINATHAN,J.

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