



W.P(MD).No.19427 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD).No.18660 of 2019

and

W.M.P(MD).Nos.15025, 15026 and 15027 of 2019

1.R.Pawnrajan

2.A.Mariappan

S/o.Arumugam

3.A.Mariappan

S/o.Alagarsamy Chettiar

4.M.Saravanan

5.M.Chandrasekar

6.S.Ravikumar

7.S.Sasikumar

8.V.Karthigai Selvan

9.V.Ganesan

10.V.Rajapandi

... Petitioners

Vs.,

1.The District Registrar,
Co-operative Societies,
Virudhunagar District.



W.P(MD).No.19427 of 2021

2.S.Pitchai Raj (Ambalam)

President, Amabalam S.Kandhan Chettiar

Kariam M.Ayyavu Chettiar Vagaiyarakkalukku

Pathiyappatta Puliyampatti Maninagaram Vaniga Vaisiya

Vaniyar Uravin Murai Trustee, Vaniyar Podhu,

Aruppukottai, Virudhunagar District.

3.P.C.Muthuraj

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records pertaining to the Form VII indicating the petitioners' removal of membership from Ambalam S.Kandhan Chettiar Kariam M.Ayyavu Chettiar Vagayarakalukku Pathiyapatta Puliyampatti Maninagaram Vaniga Vaisiya Vaniyar Uravin Murai Trustee, Vaniyar Podhu, Aruppukottai, Virudhunagar District (Registration No.198/2010) with effect from 23.06.2019 which has been registered by the first respondent and quash the same and consequently direct the third respondent not to interfere into the administration of the said society.

For Petitioners : Mr.P.Gunasekaran

For Respondents : Mr.P.Subbaraj (for R1)
Special Government Pleader
Mr.T.Leninkumar (for R3)

ORDER

The writ petition has been filed challenging the act of the first respondent receiving the Form-VII submitted by the third respondent/ then Secretary of the Vaniyar Uravin Murai Trust.



W.P(MD).No.19427 of 2021

2. It is the case of the petitioners that the third respondent has removed the petitioners from membership of the Uravinmuari, as they acted against the welfare of the Uravinmurai, without any authority, and submitted Form-VII and the same was registered by the first respondent. As against which, the petitioners have filed this Petition with the aforesaid prayer.

3. The learned counsel appearing for the third respondent submitted that only after passing the resolution by removing the petitioners, Form-VII has been submitted along with resolution. Therefore, the same cannot be questioned. In this regard, the learned counsel placed the judgment of the Hon'ble Division Bench of this Court reported in **(2008) 2 LW 75** in the case of ***R.Muralidaran and others and The District Registrar and Sidharth Heights Apartments Owners Association.***

4. The learned Special Government Pleader appearing for the first respondent submitted that the first respondent is only performing the ministerial act by receiving the Form VII submitted by the third respondent.

5. Heard both sides.



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6. Considering the submissions made on either side, this Court is of the view that the removal of the petitioners cannot be questioned in this writ petition. If the petitioners are aggrieved over their removal from the membership of Uravinmurai, the proper way of the petitioners is to challenge that removal and not to challenge the action of the first respondent in accepting Form-VII filed by then Secretary.

7. It is relevant to note that the Hon'ble Division Bench of this Court in ***R.Muralidaran's case***, at Paragraph 32 and 33 has held as follows:

“.....

32. *From a bare reading of Sub Section (1) of Section 34, it is clear that the only obligation cast upon the Registrar, upon receipt of any document or Form filed under the Act, is to call for any further information or explanation in respect of any matter, to which, such document relates to. Sub Section (3) makes it still more clear by prescribing that the Registrar may annex such information or explanation to the original document filed with him. Therefore, if Form No. VII is filed with the Registrar, as required by Section 15(1) of the Act read with Rule 17(2) of the Rules, all that the Registrar can do is only to call for further information or explanation under Section 34(1) and keep the information or explanation received by him as an annexure to the original document. This is nothing but a mere*



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ministerial function and hence, it cannot be challenged by way of a writ petition under [Article 226](#) of the Constitution of India.

33. In any event, the filing of Form No. VII is only a consequential action to an election purportedly conducted. The acceptance of such a Form by the Registrar would neither affix a seal of approval on the validity of the election nor would the rejection of Form No. VII by the Registrar, invalidate an election properly conducted. Therefore, a person, who is aggrieved by an election, should only go before a Civil Court challenging the election. A person aggrieved by an election cannot challenge the acceptance or rejection of Form No. VII by the Registrar as a short cut to invalidate an election. This is why the Full Bench of this Court, in *C.M.S.Evangelical Suvi David Memorial Higher Secondary School Committee v. The District Registrar, Cheranmahadevi and four Ors.* 2005-2- L.W. 550, held that the power under [Section 34](#) is only incidental and that it was only for the purpose of maintaining correct records. Paragraph No. 18 of the Judgement of the Full Bench reads as follows:

18. The power of the Registrar to enquire into the affairs of the society is only to hold a summary inquiry for his own satisfaction. The said power cannot be construed as the power of appeal. Under [Section 36](#), the Registrar has not been empowered to adjudicate upon the conflicting claims to represent the society based upon question of fact. A plain reading of [Section 3](#) shows that the Registrar could look only the provisions of the Act and the Rules and prima facie materials to arrive at a conclusion either to believe or not to believe Form No. VII in order to effect change in the



W.P(MD).No.19427 of 2021

register. The Power of the Registrar to call for information and explanation under [Section 34](#) does not contemplate any power to examine witnesses or to allow opportunity for cross examination of witnesses. The power in our view is incidental and it is only for the purpose of maintaining correct records. As the power to conduct inquiry is only limited in order to find out whether constitution of members are valid, the inquiry is limited only for the purpose of making entries in the register. However, the exercise of power must not be arbitrary as the orders passed or directions issued by the Registrar is amenable to challenge in the Writ Jurisdiction.”

8. The above decision is squarely applicable to the facts of this case also.

Hence, I do not find any merits in this writ petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

08.08.2024

(1/2)

NCC : Yes/No

Index : Yes/No

Rmk

To

1. The District Registrar,
Co-operative Societies,
Virudhunagar District.



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W.P(MD).No.19427 of 2021

N.SATHISH KUMAR, J.

Rmk

W.P(MD).No.18660 of 2019

08.08.2024

(1/2)