



*W.P.(MD)No.11019 of 2023
and Contp.(MD) No.3032 of 2024*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.11019 of 2023
&
WMP (MD) No.23125 of 2024
and
CONTP. (MD) No.3032 of 2024

In W.P.(MD) No.11019 of 2023:

Samiyappan
Honorary Secretary,
Society for the Prevention of Cruelty
to Animals (SPCA),
No.129, Dabeerkulam Road,
East Gate,
Thanjavur-613 001.

... Petitioner

Vs.

- 1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
- 2.The District Registrar (Societies),
Thanjavur District,
Thanjavur-613 010.
- 3.The District Collector,
Thanjavur,
Thanjavur District.



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4.The Member Secretary,
Tamil Nadu Animal Welfare Board,
Commissionerate of Animal Husbandry
and Veterinary Services,
Veterinary Polyclinic Campus,
No.571, Nandanam,
Chennai-600 035.

5.The society for the Prevention of Cruelty to
Animals (SPCA),
Rep. by its Society,
Office of Regional Joint Director of Animal
Husbandry, Old Collectorate Campus,
Court Road, Thanjavur-613 001.

[R4 is deleted and R5 rearranged as R4 vide Court
order dated 01.06.2023 by CVKJ
R5 is Suo motu impleaded]

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Declaration to declare the action of the District Collector/Respondent No.3 in unilaterally transferring the properties of petitioner's Sangam / Association as illegal and consequently directing the first respondent to initiate appropriate legal action against the respondents 2 & 3 by considering the petitioner's representation dated 13.02.2023 within a stipulated time as fixed by this Court.

[Prayer amended as per order of this Court made in WMP.(MD) No. 9018 of 2025 dated 25.04.2025 by VSJ]

For Petitioner	: Mr.Henri Tiphage
For Respondent	: Mr.Veera Kathiravan, AAG
Nos.1 to 5	Asst. by Mr.K.S.Selva Ganesan, AGP



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In Contempt Petition No.3032 of 2024:

Samiyappan
Honorary Secretary,
Society for the Prevention of Cruelty
to Animals (SPCA),
No.129, Dabeerkulam Road,
East Gate,
Thanjavur-613 001.

... Petitioner

Vs.

1.The District Collector,
Thanjavur,
Thanjavur District.

2.The Regional Joint Director of Animal
Husbandry,
Court Road,
Society for the Prevention of Cruelty to
Animals (SPCA), Thanjavur District,
Thanjavur-613 001.

... Respondents

Prayer: This petition is filed under Section 11 of the Contempt of Courts Act, 1971 against the respondents herein for their wilful disobedience to implement the order passed by this Court in W.P. (MD) No.11019 of 2023 dated 01.06.2023 and punish the respondents.



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For Petitioner : Mr.Henri Tiphage

For Respondent : Mr.Veera Kathiravan, AAG

Nos.1 & 2 Asst. by Mr.K.S.Selva Ganesan, AGP

In WMP (MD) No.23125 of 2024:

Sathishkumar

... Petitioner

Vs.

1. Samiyappan
Then Secretary,
Society for the Prevention of Cruelty
to Animals (SPCA),
No.129, Dabeerkulam Road,
East Gate, Thanjavur-613 001.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
- 3.The District Registrar (Societies),
Thanjavur District,
Thanjavur-613 010.
- 4.The District Collector,
Thanjavur,
Thanjavur District.
- 5.The Member Secretary,
Tamil Nadu Animal Welfare Board,
Commissionerate of Animal Husbandry
and Veterinary Services,
Veterinary Polyclinic Campus,
No.571, Nandanam,
Chennai-600 035.

... Respondents



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Prayer: This petition is filed under Article 226 of the Constitution of India to implead the petitioner herein as party/fifth respondent in W.P.(MD) No.11019 of 2023.

For Petitioner : Mr.N.Dilipkumar

For Respondent-1: Mr.Henri Tiphage

For Respondent : Mr.Veera Kathiravan, AAG

Nos.2 to 5 Asst. by Mr.K.S.Selva Ganesan, AGP

COMMON ORDER

This Petition has been preferred by the petitioner on behalf of his society to declare the action of the District Collector, Thanjavur in unilaterally transferring the properties of their Sangam / Association as illegal and consequently directing the first respondent herein to initiate appropriate legal action against the respondents 2 & 3 herein by considering his representation dated 13.02.2023.

2. Insofar as the prayer in the contempt petition is to punish the respondents therein for their wilful disobedience to implement the order passed by this Court in W.P.(MD) No.11019 of 2023 dated 01.06.2023.



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3. In regard to the impleading petition, this Court had earlier passed an order dated 20.11.2024 to the effect that the petitioner has to produce material documents to prove him as a member, but the petitioner has not proved his locus standi to the matter. Hence, the petition stands dismissed.

4. The facts which lead to the filing of the present Writ Petition as averred by the petitioner is as follows:

4.1. The petitioner is the Honorary Secretary of the Society for the Prevention of Cruelty to Animals [hereinafter referred to as "SPCA" for brevity] and stated that it was initially registered in the year 1929. The society purchased lands measuring to an extent of 13 acres 13 cents in the year 1935 through various sale deeds by their individual members. At this stage, the Prevention of Cruelty to Animals Act, 1960 was enacted and under Section 4 of the aforesaid Act, under the jurisdiction of the Ministry of Food and Agriculture, the Central Government established "Animal Welfare Board of India" in 1962 [in short as "Board"] which is a statutory and advisory body, was transferred to the Ministry of Environment,



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Forests and Climate Change in 1990 and further shifted to the Department of Animal Husbandry and Dairying.

4.2. As per the directions of the Board, the society changed its bye-laws in 1968 and by which, the District Collector, Thanjavur & Government higher officials were made as President and Honorary members of it and the secretary as ex-officio of the Executive committee by adding that the society may sell, exchange, lease, mortgage, dispose or gratuitously all or any other part of the property of it. Since the registration of 1929 was not alive, it was again registered in the year 1973 under the Societies Registration Act, 1860 vide document No.32/1973 on the file of the District Registrar, Thanjavur.

4.3. At this point of time, the Prevention of Cruelty to Animals (Establishment and Regulation of Societies for Prevention of Cruelty to Animals) Rules, 2001 was enacted which mandates every State Government to establish a SPCA in all the districts of the State, which in turn shall submit its annual report incorporating all its activities to the Board as well as to submit its annual accounts every month duly audited by any authorized body.



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4.4. As per the amended bye-laws, the Secretary convened meeting and as the registration of the society was not alive, they have taken steps to re-register the society in the name of "Animal Welfare Society". The petitioner herein and one Karunanidhi became the Honorary Secretary and Treasurer in the year 1995 & 2009 respectively. The grandfather and father of the petitioner had served as Secretary and Treasurer to the SPCA. They have been repeatedly insisting for renewal of SPCA to the then District Collectors but however the same were not considered. While that being so, on 28.02.2022, the then District Collector/Dinesh Ponraj Oliver had registered a fresh society in the name of SPCA, Thanjavur District and registered our society's properties comprised in S.Nos.99/1, 104/4B and 105/4 in the newly registered society, which is illegal and arbitrary, who had also threatened the treasurer that he will remove him from his post and also not returned the minute books of the meeting conducted dated 16.02.2022. The petitioner and the members of the society are struggling to get back their society's properties and made representation to the respondents 1 to 3 herein to take action against the aforesaid District Collector.



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4.5. It was stated that unless the name change occurred, the District Collector has no rights to retain their society's properties as per Section 11 of the Tamil Nadu Societies Registration Act, 1975 since a new society was formed, he has no authority to transfer their society's properties and also submitted that the concerned respondents have failed to adhere to Section 18 of the Act. At the instigation of the aforesaid District Collector, a criminal case has been registered against him and another in Crime No.9 of 2022 under Sections 409 and 420 of IPC. However, the same was quashed by this Court vide order dated 14.12.2023. Since no action has been taken by the respondents 1 to 3 for their representation in regard to secure the societies properties, the petitioner with no other option except to approach this Court for the relief sought in the present petition.

5. Heard the learned counsel appearing for the parties on either side.

6. The learned counsel for the petitioner submitted that this Court had passed an interim order on 01.06.2023, directing the respondents to place all records and there not be any encumbrance



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created over any of the properties and also stated that the then District Collector shall be answerable in his official capacity to the various allegations raised in the affidavit of the present petition. He further submitted that without complying to the orders of this Court dated 01.06.2023, the Director of the Tamil Development, Information and publicity Department had issued a notification dated 04.12.2024 inviting tender to set up stalls in the subject properties in issue, which is bad in law and unsustainable, for which they have filed contempt petition in Contempt petition No.3032 of 2024.

7. He drew the attention of this Court to the decision of the **Kerala High Court** in the case of **Society for Prevention of Cruelty to Animals, Kannur Vs. K.Kanakavally & Others dated 04.11.2022**. The said decision reveals that a registered society remains valid until officially dissolved; further formation of a new SPCA does not automatically dissolve the old one; moreover the tenants, who have acknowledged the original SPCA's ownership, cannot later challenge it and the bona-fide requirement for eviction was met and the Courts should not question how landlords use their property, if intentions are genuine.



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8. Moreover, the learned counsel submitted that the present case on hand is similar to that of SPCA, Kannur established in 1935 and its eviction petition against tenants for the purpose of setting up an animal shelter.

9. The learned counsel further submitted that the petitioner's society was not defunct since the same was not declared as defunct by the competent Registrar of Society as per Section 44 of the Tamil Nadu Society Registration Act which reads as follows:

1)Where the Registrar has reasonable cause to Removal of believe that a registered society is not carrying on business defunct or in operation, he shall send to the registered society by registered post a letter enquiring whether the society is carrying on business or in operation.

2)If the Registrar either receives an answer from the registered society to the effect that it is not carrying on business or in operation, or does not within such period as may be prescribed after sending the letter receive any answer, he may publish in the Tamilnadu Government Gazette, and send to the registered society by registered post, a notice that, at the expiration of such period as may be prescribed from the date of



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such publication, the name of the registered society mentioned therein will, unless cause is shown to the contrary, be struck off the register and the registered society will be dissolved.'

10. He contended that the formation of SPCA Thanjavur District is not under challenge and is not being interfered with by the petitioner. However, he argued that the properties of the petitioner's society were purportedly transferred by the District Collector, which is irregular and contrary to the established principles of law and hence, he prayed this Court to allow the petition and also to take action against the erred officials for their unlawful act.

11. Per contra, the learned Additional Advocate General appearing on behalf of the official respondents submitted that the registration of the petitioner's society in the year 1929 has to be established by the petitioner and also contended that even assuming that the subject properties were purchased by the petitioner's society, no individual can claim right over the same. He submitted that as per the Board directions, the petitioner's society has changed its bye-laws in 1968, making the District Collector and



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Government higher officials as Honorary President and members of the society. He also drew the attention of this Court to the Rules of the said Society which has been registered under Doc.No.32/1973. He contended that in view of the letter of the Board dated 01.10.2018 to all State Governments/Union Territories, wherein it had noticed that some illegal and unauthorized SPCAs are functioning in some of the districts in violation of the Prevention of Cruelty to Animals Act, 1960 and the rules made thereunder and requested to take strict action against the said SPCAs and it had also addressed letters to the Director of Animal Husbandry & Veterinary Services/Member Secretary, TNAWB vide letter dated 05.11.2020, who in turn sent letter dated 18.10.2021 to all the District Collectors of the State Government of Tamil Nadu to ensure the functioning of SPCA in every districts and those in violation of PCA Act and SPCA Rules details to derecognize them by the Board. Based on the same, the petitioner's society was reconstituted as SPCA Thanjavur with the District Collector as Chairperson and other Government higher officials as its members which was registered as SI.No.11/2022 in the office of the second respondent on 28.02.2022.



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12. The learned AAG argued that the petitioner is facing criminal case and cannot claim to be a member of the reconstituted and newly registered society. He also submitted that the petitioner had taken steps to re-register the society in the name of "Animal Welfare Society", which was rejected by the District Registrar (Administration), Thanjavur vide communication dated 27.03.2023 as the same was not presented with the consent of the chairperson the District Collector, Thanjavur. He contended that the petitioner has not produced any proof in regard to the service of his grandfather and father as Honorary Secretary to the SPCA and also not mentioned the name of the petitioner's sangam / association and furthermore, he cannot claim that the subject property is a private property. He also stressed that after lapse of 50 years, the petitioner cannot claim title over the property as per the changed bye-laws , where the District Collector as President and Government higher officials as members of the Executive Committee vide registered doc. No.32/1973.

13. He argued that the petitioner's society was not renewed and the same was decided in the meeting held on 16.02.2022 by the executive committee and the reconstituted society in the name



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of "SPCA, Thanjavur District" was registered with the office of the second respondent on 28.02.2022 as Doc. No.11/2022 with the new official members and hence, the petitioner is no longer the member of the society. He also brought to the notice of this Court that a criminal case was registered against the petitioner and one another in Crime No.9 of 2022 under Sections 409 and 420 IPC as they have received Rs.80 lakhs from the Thanjavur corporation and not submitted the audit report even after notices. He also contended that the petitioner along with other had indulged in misappropriation of funds of the society. Thus, he prayed this Court to dismiss the petition filed by the petitioner for the relief sought for.

14. I have considered the rival submissions made by the respective learned counsels and also perused the materials available on record.

15. On a careful perusal of the case, it is seen that the petitioner is not disputing the formation of the new SPCA, Thanjavur but however opposed the action of the respondents in taking their ownership of the subject properties in issue. This Court recognises the importance of the statutory mandate issued under the



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Prevention of Cruelty to Animals Act, 1960 and the corresponding Rules, 2001, whereby the State Governments are empowered to constitute societies in every districts for the Prevention of Cruelty to Animals (SPCAs) in accordance with the guidelines issued by the Board and accepts that the formation of the new Society namely, SPCA Thanjavur District is found to be in conformity with the objects of the said policy. But however, as per the decision of the Kerala High Court in *K.Kanakavally's case* as stated supra, the creation of a new SPCA under the 2001 Rules does not ipso facto extinguish the legal existence, autonomy or proprietary rights of an earlier society registered under the Societies Registration Act, 1860 wherein it has held that "the Society being a society registered under the societies Registration Act, 1860 unless it is dissolved, will continue to exist and in the absence of any law prohibiting such a society from functioning, it cannot be said that the society cannot continue its activities or hold its properties".

16. In the present case on hand, it appears that the properties stands in the name of the erstwhile Society [SPCA, Thanjavur, registered under No.32/1973] have been transferred to the newly formed society without adherence to any formal statutory



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procedure, such as dissolution, merger or a lawful transfer of title supported by consent or resolution of the competent governing body of the original society.

17. At this juncture, it is relevant to refer to the *K.Kanakavally's case* as stated supra, wherein the Hon'ble Kerala High Court has noted that even where Government officers are Honorary members or functionaries in both societies, their ex-officio involvement does not, by itself, effectuate a transfer of ownership or vesting of rights. It also held that property transfers, especially involving registered societies must conform to due legal processes, failing which such transfers are rendered legally unsustainable.

18. Considering the submissions made on either side and in the light of the decision of the Hon'ble Kerala High Court as stated supra, this Court is of the opinion that the petitioner's society is a registered society which is in existence as it is not officially dissolved till date and formation of the new Society i.e., SPCA, Thanjavur District does not automatically dissolve it and its rights over the properties acquired by it through its members. Hence, the subject properties in issue of the society which have been transferred to the



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newly formed society without any legal provisions, is unsustainable and illegal in the eye of law. This Court finds force in the submissions put forth by the learned counsel for the petitioner and at the same time, acknowledges the formation of the new society as per the Act and Rules as stated supra. The legal existence, autonomy or proprietary rights of the petitioner's society remains valid, the prayer sought for by the petitioner deserves to be allowed.

19. In view of the orders passed in the Writ Petition in W.P.No. 11019 of 2023, the Contempt Petition viz., Cont.P.No.3032 of 2024 stands closed. However, the action of the respondents not complying with the interim orders of this Court dated 01.06.2023, is condemnable.

20. In the result, the Writ Petition stands allowed; Contempt Petition is closed; and the Miscellaneous Petition filed in WMP(MD) No.23125 of 2024 is dismissed. There shall be no orders as to costs.

25.04.2025

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

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To

- 1.The Inspector General of Registration,
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Chennai-600 028.
- 2.The District Registrar (Societies),
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Thanjavur-613 010.
- 3.The District Collector,
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