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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE GK.MUTHUKUMAAR

OSA Nos. 228 & 229 of 2022

CNR:{HCMA011300632022}

and CMP Nos. 13835 & 13838 OF 2022

Anu Varghese ..Appellant(s)

Vs

1. Babu Daniel

2. The Madras Medical Mission
   NO.4-A, Dr.J.Jayalalitha Nagar, Mogappair East, Chennai 600 037.

3. The Hon.Secretary(Interim)
   The Madras Medical Mission, NO.4-A, Dr.J.Jayalalitha Nagar, Mogappair East, Chennai 600 037.

4. Cherian Abraham

..Respondent(s)

OSA No. 229 of 2022

CNR:{HCMA011300622022}

Cherian Abraham

..Appellant(s)

Vs

1. Babu Daniel

2. The Madras Medical Mission
   NO.4-A, Dr.J.Jayalalitha Nagar, Mogappair East, Chennai 600 037.

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3. The Hon.Secretary
   The Madras Medical Mission, NO.4-A,
   Dr.J.Jayalalitha Nagar, Mogappair East,
   Chennai 600 037.

4. Anu Varghese

..Respondent(s)

OSA No. 228 of 2022 has been filed under Order XXXVI Rule 1 of OS Rules read with Clause 15 of Letters Patent to set aside the order dated 10.08.2022 passed in Application No.2324 of 2021 in O.A.No.816 of 2019 in C.S.No.523 of 2019.

OSA No. 229 of 2022 has been filed under Order XXXVI Rule 1 of OS Rules read with Clause 15 of Letters Patent to set aside the order dated 10.08.2022 passed in Application No.2324 of 2021 in O.A.No.816 of 2019 in C.S.No.523 of 2019.

In all OSAs

For Appellant(s): Mr.P.S.Raman, Senior Counsel
for Mr.Hari Radhakrishnan

For Respondent(s): Mr.Davidson Devashish for R1
Mr.D.Ferdinand for
M/s.BFS Legal for R2 & R3

COMMON JUDGMENT

(Judgment of the Court was delivered by N.Sathish Kumar J.)

Challenging the order of the learned Single Judge dated 10.08.2022 allowing the application in A.No.2324 of 2021 in C.S.No.523 of 2019 filed by the first respondent herein, directing the retention of the appellants/respondents 3 and 4 therein in Civil Prison for a period of one month, the present appeals have been filed by the respondents 3 and 4 therein.

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2. The appellant in OSA.No.228 of 2022 namely Anu Varghese is the fourth respondent and the appellant in OSA.No.229 of 2022 namely Cherian Abraham is the third respondent in the above application, A.No.2324 of 2021. Similarly, the first respondent in these appeals is the plaintiff in C.S.No.523 of 2019 and the appellant in OSA.No.229 of 2022 is the third defendant in C.S.No.523 of 2019.

3. Brief facts leading to filing the appeal is as follows:-

3.a. The Madras Medical Mission is a Society registered under the Societies Registration Act on 12.01.1982. The appellant is a life time member of the Society from 1996 and he has also been in the Governing Board from 2001 to 2016 and was heading the Audit Committee of the society. As per the rules and regulations of the society, the Governing Board of the Society has control over affairs and funds of the Society. One Dr.K.Jacob was elected as Honorary Secretary of the Board on 15.01.2009 and the fourth respondent was elected as Honorary Treasurer of the Board on 09.10.2010 and they were dealing with financial matters of the Society, but however, some of the Members of the Board were not satisfied with their functioning. Therefore, in an Extraordinary General Body Meeting held on 17.09.2017, a Money Committee was appointed by the General Body to inquire into the financial matters of the Society and one Dr.Suja Issac was appointed as a Convener by the President Bishop, vide letter dated 19.09.2017. The Money Committee found out the financial irregularities amounting to Rs.186.63 Crores, therefore,

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Extraordinary General Body Meeting was held on 22.06.2019 by the 33 Members of the Society, whereby it was resolved to appoint 5-Member Committee to grant, short-list and select a professional agent to conduct a forensic audit of the financial affairs of the Society. Further, by another resolution, Dr.Jacob and Mr.Cherian Abraham were suspended from all positions held by them with the Society. Resolution was approved by the President of the first respondent-Society and the same was informed to both Dr.K.Jacob and Mr.Cherian Abraham by the President, vide letter dated 23.06.2019. The fourth respondent, by a requisition letter dated 18.07.2019, requested the Governing Board for conducting an EGM to discuss on the proceedings of the Extraordinary General Meeting dated 22.06.2019 and to recall of the resolution passed at the Extra-Ordinary General Meeting on that day. Since the Governing Board took a decision on 16.08.2019 not to convene the EGM, the fourth respondent issued a notice dated 17.08.2019 for an EGM to be convened on 08.09.2019.

3.b. Challenging the notice dated 17.08.2019, the Plaintiff/applicant has filed the suit on the ground that it is not in consonance with Section 28 of the Societies Registration Act; the third respondent did not challenge the appointment of the Money Committee report in the year 2017; the appointment of Forensic Audit and suspension of the third respondent and Dr.K.Jacob and it is against the By-laws of the Society. Therefore, the Plaintiff/first respondent has filed the suit in C.S.No.523 of 2019 and also an Application in O.A.No.816

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of 2019 seeking for an interim injunction for conducting the EGM on 08.09.2019. This Court vide order dated 06.09.2019 granted interim injunction. Aggrieved, the fourth respondent has filed an appeal in O.S.A.No.238 of 2019 and the same was dismissed on 14.12.2020. Thereafter, the appellant along with other requisitionists, by letter dated 29.03.2021, intimated about the convening of EGM Meeting to all the members of the society. Accordingly, the EGM meetings convened and conducted by the appellant from 23.04.2021 to 25.04.2021. Therefore, convening of such EGM meeting is in sheer violation, utter disregard and grave disobedience of the injunction order of this Court, dated 06.09.2019. Therefore, the application was filed in O.A.No.2324 of 2021, seeking to punish the appellants/respondents 3 and 4 for their willful disobedience and defiance of the order of this Court in O.A.No.816 of 2018, dated 06.09.2019.

3.c. It is the contention of the appellants in the impugned applications that the Resolution passed in the EGM on 22.06.2019 is illegal resolution and the decision was taken by a small majority of members and therefore, resolution has to be recalled. The validity and legality of the EGM held on 23.04.2021 was questioned by the Plaintiff by filing a separate suit in C.S.No.159 of 2021. Though this Court had initially injuncted the said EGM and consequently the results of the said EGM has been stayed by order dated 01.10.2021 in O.A.No.251 of 2021 for implementing the results of the EGM. Aggrieved by the same, OSA No.316 of 2021 has been filed, in which the Division Bench had

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stayed the order of the learned Single Judge and therefore, the results of the EGM were revived. Therefore, according to the appellants herein the fact whether the EGM called on 23.04.2021 is valid or not is a matter for consideration and the same was pending before the Division Bench in O.S.A.No.316 of 2021. Therefore, there is no contempt whatsoever made out.

3.d. The learned Single Judge, however, taking note of the fact that despite the injunction order passed in O.A.No.816 of 2019 dated 06.09.2019, the appellants herein have conducted the meeting, therefore held that since there was a violation, they should be ordered to be detained in the Civil Prison. Challenging the said order, the present appeals have been filed.

4. Mr.P.S.Raman, learned senior counsel submitted that on 22.06.2019, only minority members convened the EGM and passed certain resolution, however, later EGM was convened by majority of the members of the Society and notice has been issued on 08.09.2019. This Court in O.A.No.816 of 2019 has granted interim injunction restraining the appellant in OSA.No.229 of 2022 from conducting the EGM on 08.09.2019 at 7pm and he would submit that no EGM has been conducted on that particular day, whereas, majority of the members have called for the meeting and in pursuant of the same, EGM was held on 23.04.2021 and the said EGM resolution was also questioned by the applicant in a separate suit in CS.No.159 of 2021. Though the learned Single Judge has initially injuncted the said EGM vide order dated 01.10.2021 in OA.No.251 of 2021, appeal has been filed in OSA.No.316 of 2021, wherein, the

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Division Bench had stayed the operation of the order passed by the learned Single Judge. Hence, it is the contention that results of the EGM were revived and whether the factum of EGM was called on 23.04.2021 is valid or not is a matter for consideration and the same is pending before the Division Bench in OSA.No.316 of 2021 and thus, would submit that the appellants should not have been punished for violating the orders.

5. Whereas, the learned counsel for the respondents vehemently submitted that the learned Single Judge in OA.No.816 of 2019 specifically restrained the appellant in OSA.No.229 of 2022 from convening EGM to be held on 08.09.2019. Though the said judgment has been challenged, the same has been affirmed in a Division Bench also. Even thereafter, EGM has been conducted, challenging the same, the first respondent filed a suit in C.S.No.159 of 2021. Hence, would submit that though the main suit itself is disposed of, since the breach has been committed by the appellants, the learned Single Judge punished the appellants which does not require interference. Hence, seeks for dismissal of these appeals.

6. Heard the learned senior counsel for the appellants and the learned counsel for the respondent No.1 and Nos.2 and 3. and perused the materials placed on record

7. In light of the above, now the point that arise for consideration in these appeals is :-

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(i) Is there any willful disobedience established to punish the appellants under Order XXXIX CPC Rule 2A of CPC?

8. The impugned application has been taken out by the first respondent seeking to punish the appellants herein in A.N.2324 of 2021 in CS.No.523 of 2019. The application has been mainly proceeded as if the interim injunction granted by this Court in the above application has been breached and there was a wilful disobedience by the respondents 3 and 4 in the application. It is relevant to note that in the suit in C.S.No.523 of 2019 only three parties were made as defendants. The appellant in OSA.No.229 of 2022 is made as third defendant and the other appellant, i.e., OSA.No.228 of 2022 namely Anu Varghese was not made as a party to the suit. The injunction granted in the above application is binding only to the parties of the suit and admittedly, the appellant in OSA.No.228 of 2022/Anu Varghese is not a party to the suit.

9. Be that as it may, the main contention of the learned counsel for the respondents is that there was wilful disobedience shown by the respondent that despite the order of injunction, EGM was convened by the appellants herein. It is relevant to note that the suit in CS.No.523 of 2019 was filed by the first respondent herein challenging the notice dated 17.08.2019 issued by the third defendant calling for an EGM to be held on 08.09.2019. The plaintiff therein filed OA.No.816 of 2019 seeking interim injunction restraining the EGM to be held on 08.09.2019 and this Court vide order dated 06.09.2019 restrained the third defendant from convening EGM to be held on 08.09.2019. This order has

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reached finality which has not been disputed by filing OSA against the said order in OSA.No.238 of 2019, wherein, the interim injunction granted by the learned Single Judge was affirmed. Though the application has been proceeded for punishment for willful disobedience on the ground that despite the order of interim injunction restraining the EGM to be held on 08.09.2019, it is relevant to note that there is no materials placed before the learned Single Judge or before this Court to show that EGM was conducted on 08.09.2019 breaching the order of the injunction, therefore, we are of the view that once there was no EGM conducted on that particular day which the appellant in OSA.No.229 of 2022 was restrained, willful disobedience cannot be inferred merely because subsequent change of circumstances; and the facts placed before us clearly indicate that majority members have been subsequently called for the EGM which was held on 23.04.2021 and certain resolutions have been passed.

10. The notice for convening the meeting to be held on 23.04.2021 was challenged in a separate suit in C.S.No.159 of 2021, wherein, the application in OA.No.251 of 2021 was filed seeking interim injunction from conducting the EGM on 23.04.2021 and the learned Single Judge vide order dated 01.10.2021 held that the resolution passed in the meeting held on 23.04.2021 will have no legal effect and the same is incapable of being legally enforced and the matter was posted for filing written statement. The said order was challenged in OSA.No.316 of 2021, wherein, this Court in OA.No.251 of 2021 in C.S.No.159 of 2021 vide order dated 16.11.2021 stayed the order dated 01.10.2021 passed

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by the learned Single Judge and subsequently, the OSA itself was disposed of by judgment dated 18.07.2025 holding that interim injunction granted by this Court is in force and the same will continue till the disposal of the suit and therefore, the order of the learned Single Judge annulling the resolution, by way of orders of the Division Bench has been revived and thus, meeting held later on 23.04.2021 and the resolution passed therein is now under challenge in the pending suit in CS.No.159 of 2021.

11. It is relevant to note that CS.No.523 of 2019 originally filed challenging the earlier notice dated 17.08.2019 calling for EGM on 08.09.2019 is also dismissed by the learned Single Judge vide judgment dated 23.02.2024 holding that since the EGM is conveyed and minutes are already passed nothing survives for adjudication in the suit. Therefore, we are of the view that when the very suit filed challenging the notice calling for EGM itself is dismissed, the interim injunction passed in the suit restraining the third defendant therein from conducting the EGM on a particular date and merely because EGM was conducted at a later point of time which was permitted by the Court in a separate suit; later the resolution passed by the said EGM held to be unenforceable by the learned Single Judge was also stayed by the Division Bench in OSA.No.316 of 2021 and the Division Bench had also disposed of the appeal vide judgment dated 18.07.2025, we are of the view that there is no wilful disobedience of the order dated 06.09.2019 in O.A.No.816 of 2019 IN C.S.No.523 of 2019, particularly, when no EGM was conducted on that specific

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date in which the order of injunction restrained one of the appellant herein. Furthermore, the EGM was also conducted by the majority of the members on the later date in the year 2021 and considering all these aspects, we are of the view that this aspect has not been diverted by the learned Single Judge. Hence, in the absence of any willful disobedience of an order, a person cannot be punished.

12. The suit filed by the respondent itself is dismissed and the resolution passed later are also put to challenge in a separate suit in C.S.No.159 of 2021, in such view of the matter, we are of the view that in the absence of willful disobedience established, the appellants cannot be punished for the EGM which was conducted at a later point of time by the majority of the members and further, it is also to be noted that one of the appellant is also not a party to the suit, wherein, the injunction was granted restraining the appellant in OSA.No.229 of 2022. Considering all these aspects, the order of the learned Single Judge cannot be sustained in the eye of law and accordingly the same is set aside.

13. In the result, these original side appeals stands allowed. No costs. Consequently, connected miscellaneous petitions stand closed.

(N.S.K.,J.) (G.K.M.,J.)
28-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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