



CRP(MD). No.3758 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 17.02.2026

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THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.3758 of 2025
and CMP(MD).No.197914 of 2025**

1.Madurai Therkuvasal Nadar

Vidhyabiviruthi Sagam (Uravinmurai) Through
its President S.Ganapathy, No.16A, Nadar
Vidhyasalai Shaba, South Gate,
Madurai 625 001. Madurai District.

2.Madurai Therkuvasal Nadar

Vidhyabiviruthi Sagam (Uravinmurai) Through
its Secretary, Myilrajan, No.16A, Nadar
Vidhyasalai Shaba, South Gate,
Madurai 625 001, Madurai District.

... Petitioners

Vs

1.K.Thanabalan

2.R.Sathiamoorthy

3.K.Asaithambi

... Respondents

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records and set aside the fair and decretal order dated 03.09.2025 passed in IA No.1 of 2023 in OS No.121 of 2023 on the file of the Principal District Munsif Court, Madurai Town and allow this Civil Revision with cost throughout.

For Petitioners

For Respondents

: Mr.K.Alagarsamy

: Ms.T.Shiva Shree

Legal aid counsel



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ORDER

WEB COPY This civil revision petition has been filed to set aside the fair and decretal order dated 03.09.2025 passed in IA No.1 of 2023 in OS No.121 of 2023 on the file of the Principal District Munsif Court, Madurai Town

2.Heard the learned counsel appearing for the petitioner as well as the learned legal aid counsel for the respondents and perused the records.

3.The revision has been preferred by the first and second defendants in the suit. The learned counsel appearing for the revision petitioners contended that, as per Section 20 of the Tamil Nadu Societies Registration Act, 1975, any legal proceedings against a registered society must strictly comply with the provisions of the Act and the by-laws of the society. Section 20 is extracted hereunder:

20.Legal proceedings by or against registered societies.

(1) The Committee or any officer of the registered society authorised in this behalf by its by-laws may bring or defend or cause to be brought or defended any action or other legal proceeding touching or concerning any property, right or claim of the registered society and may sue or be sued in respect of any such property, right or claim.



(2) Any action or other legal proceeding shall not abate or be discontinued by the death, resignation or removal from office of any officer of the registered society.”

When a suit is instituted, the plaintiff must establish that such institution is in consonance with the Act. In the present case, there is absolute non-compliance with the statutory requirements.

4.The learned counsel further submitted that the revision petitioner is a registered society, and therefore, its by-laws must be strictly adhered to. Referring to Clause VIII of the by-laws, it was argued that the right to institute a suit is vested only with the President and the Joint Secretary of the society. Further, as per Clause 26(3)(a), even for instituting or contesting any legal proceedings, prior concurrence of the Executive Council is mandatory.

5.It was also pointed out that the Sangam consists of about 850 members, and a General Body Meeting was allegedly held, wherein 409 members participated. The learned counsel contended that, when a society is governed by registered by-laws, any suit instituted without complying with such by-laws is not maintainable. Hence, a suit filed in a representative capacity, without adherence to the statutory and by-law requirements, is barred in law.



6.Per contra, the learned counsel for the respondent submitted that the requirements under Order I Rule 8 of the Code of Civil Procedure must be considered. Order 1 Rule 8 of the Code of Civil Procedure is extracted hereunder:

“Order I Rule 8 – One person may sue or defend on behalf of all in same interest

(1) Where there are numerous persons having the same interest in one suit,—

(a) one or more of such persons may, with the permission of the Court, sue or be sued, or may defend such suit, on behalf of or for the benefit of all persons so interested;

(b) the Court may direct that one or more of such persons may sue or be sued, or may defend such suit, on behalf of or for the benefit of all persons so interested.”

It was argued that the respondent/plaintiff is admittedly a member of the registered society, and such membership is not disputed by the revision petitioners. Therefore, there is no statutory bar for instituting the suit.

7.It was further submitted that the trial Court, after taking into consideration approximately 380 members, had directed paper publication, which is sufficient compliance for notifying all members, instead of issuing individual notices.



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8.The learned counsel relied upon judgment of this Court in the case of Sankiah and two others Vs. Vadakasi and others made in A.S.No.123 of 1976, to contend that non-compliance with Order I Rule 8 CPC is a curable defect and can be decided only at the stage of framing issues and not at the preliminary stage. It was further submitted that even if there are defects, they are procedural in nature and can be rectified during trial, and therefore, the suit cannot be rejected at the threshold.

9.It was also held that suits filed in representative capacity without proper authorization may be barred by law. In this case the respondent, who filed the suit in representative capacity even without seeking leave of the court and proceeding further, which is non est in the eye of law.

10.Upon consideration of the submissions, this Court finds that when the defendant is a registered society, the entire proceedings must strictly comply with the provisions of the Tamil Nadu Societies Registration Act, 1975, and the by-laws governing the society. In the present case, the respondents have filed the suit in a representative capacity without obtaining prior leave of the Court and without adhering to the mandatory provisions of the by-laws.



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11.The core issue for determination is, whether the Court can issue notice under Order I Rule 8 CPC without such compliance?

12.This Court is of the view that when a representative suit is filed against a registered society, strict compliance with the Act and the by-laws is mandatory. In the absence of proper authorization and leave of the Court, the institution of such a suit is non est in the eye of law. Consequently, the issuance of notice under Order I Rule 8 CPC is also barred.

13.At this stage, the learned counsel for the revision petitioners submitted that, on identical facts, an earlier suit filed by one Asai Thambi had already been dismissed by the very same Court. Further, in I.A. No. 839 of 2023 dated 30.04.2025, the said plaintiff had appeared as a third-party objector in the present proceedings.

14.The learned counsel also relied upon a recent judgment of the Hon'ble Supreme Court to contend that defects under Order I Rule 8 CPC are curable. However, this Court finds that such a contention cannot be accepted in the present case, as the issue relates to lack of authority under the by-laws of a registered society.



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15.Once a society is governed by its by-laws, and the power to institute legal proceedings is specifically vested with the President and Secretary, any suit filed without such authorization cannot be sustained.

16.Accordingly, the Civil Revision Petition is allowed, and the order passed by the trial Court is set aside.

17.The Court places on record its appreciation for the commendable efforts of the legal aid counsel for the respondents, namely, Ms.T.Shiva Shree, for conducting the case diligently and providing valuable assistance to this Court. The High Court Legal Services Committee attached to this Bench shall pay a total sum of Rs.10,000/- towards remuneration to the legal aid counsel for conducting the cases, within a period of two weeks from the date of receipt of a copy of this order, without fail.

18.Registry is directed to forward a copy of this order to the Legal Aid Committee for information.

Speaking : Yes / No
NCC : Yes / No

17.02.2026



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Internet : Yes / No
Index : Yes / No

To

- 1.The Principal District Munsif, Madurai Town.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.
- 3.The Legal Aid Committee,
Madurai Bench of Madras High Court, Madurai.



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N.SENTHILKUMAR, J.

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