

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2005

CORAM

THE HONOURABLE MR.MARKANDEY KATJU, THE CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE D.MURUGESAN

W.P.No.No.37647 of 2003

S.Thamil Arasan
President of Chennai Vyasarpadi
Nadar Progressive Association
9/5, Ponnappa Mudali Street
Vyasarpadi
Chennai 600 039 .. Petitioner

-Vs-

1. R.Narayanan
2. The District Registrar,
Registrar of Societies
Chennai Central
Seethammal Colony
Teynampet
Chennai 600 018 .. Respondents

Writ Petition filed under Article 226 of The Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records connected with the order of the Registrar of Societies, Chennai Central, Seethammal Colony, Teynampet, Chennai-18 in his proceedings with No.116070/E1/2003 dated 18.11.2003 holding that the election dated 26.10.2003 held for the office bearers of the Chennai Vyasarpadi Nadar Progressive Association is not acceptable, quash the same.

For Petitioner :: Mr.R.Nadanasabapathy

For Respondents :: Dr.G.Krishnamurthy for
Mr.P.Sivamuruganantham
for R1

Mr.P.S.Sivashanmuga-
sundaram
Addl. Government Pleader
for R2

ORDER
(Order of the Court was delivered by
The Hon'ble The Chief Justice)

This writ petition has been filed against the impugned order dated 18.11.2003 passed by the District Registrar of Societies, Chennai Central. We have heard the learned counsel for the parties and have carefully perused the impugned order and we are of the opinion that it was wholly illegal and without jurisdiction.

2. It appears that an election for the office bearers of the society known as Chennai Vyasarpadi Nadar Progressive Association was held on 26.10.2003 and that election had been set aside by the District Registrar by the impugned order.

3. When Dr.G.Krishnamurthy, learned counsel appearing for the first respondent was asked as to under which provision the impugned order was passed, he has stated that the impugned order was passed under Section 36 of the Tamil Nadu Societies Registration Act, 1975. Section 36(1) of the said Act states that,

"the Registrar may, of his own motion or on the application of a majority of the members of the committee of a registered society or on the application of not less than one-third of the members of that registered society, or, if so moved by the District Collector hold or direct some person authorised by the Registrar by order in writing in this behalf to hold, an enquiry, into the constitution, working and financial condition of that registered society."

4. A perusal of the said provision shows that this provision does not permit any one to challenge the validity of an election held for the office bearers of the society, but only permits the Registrar to inquire into the constitution, working and financial condition of the society. In our opinion, since there is no specific provision permitting the challenge of an election to the society, the only remedy for challenging such election is by means of a civil suit.

5. Hence, it is obvious that the impugned order was wholly illegal and it is hereby set aside. The writ petition is allowed. No order as to costs. Consequently, W.P.M.P.No.45724 of 2003 is closed.

Sd/
Asst.Registrar

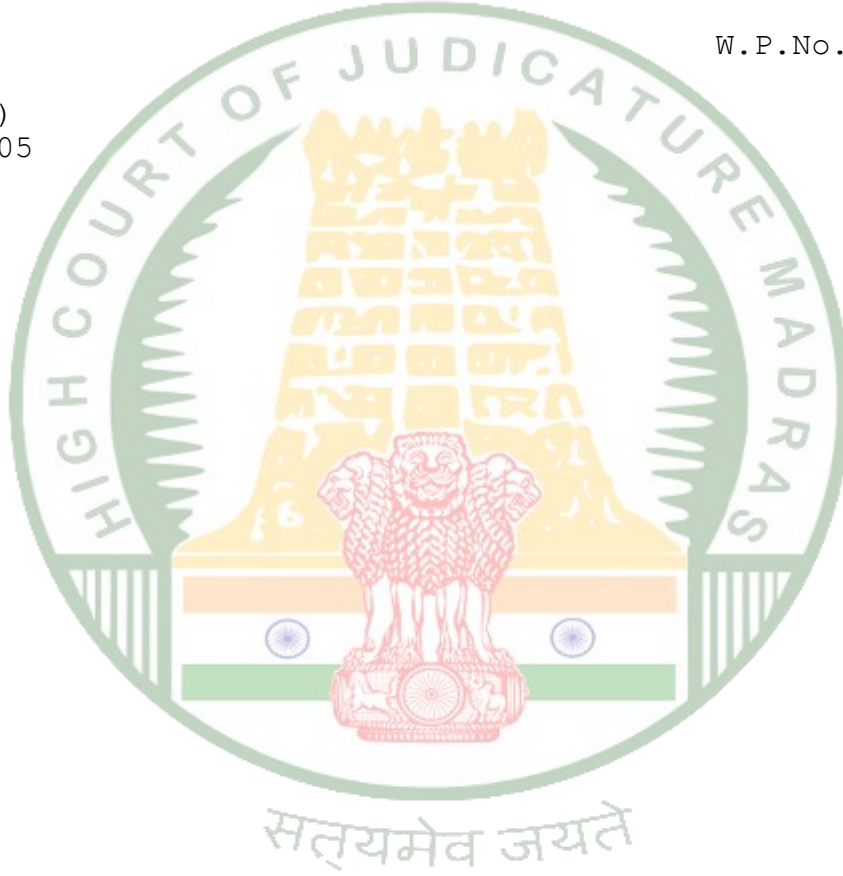
To

The District Registrar,
Registrar of Societies
Chennai Central
Seethammal Colony
Teynampet
Chennai 600 018

1 cc to Mr. R. Nadanasababathy, Advocate, SR. NO. 3759

W.P.No.37647 of 2003

SGL (CO)
kk 4.2.05



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