



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.03.2014
CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN
CIVIL REVISION PETITION(PD) (MD)No.1497 of 2013
and
MISCELLANEOUS PETITION(MD)Nos.1 and 2 of 2013

WEB COPY

1.T.P.Devaraj

2.M.Kannan

(For themselves and as
representatives of members
of the Thenmandala Thelungu
Chettiargal Sangam, Madurai
in representative capacity).

.. Petitioners/
Plaintiffs

Vs.

1.Thenmandala Thelungu
Chettiargal Sangam,
a registered Soccity
represented by its
Secretary,
Registered Office at
Door No.44,
Melapandian Akil Street,
Nethaji Road,
Madurai - 625 001.

2.The Election Committee,
Thenmandala Thelungu
Chettiargal Sangam,
represented by its
President,
Door No.1,
Saravana Poigai Street,
Thiruparankundram,
Madurai -625 005.

.. Respondents/ Defendants

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decretal order dated 07.08.2013 passed in Interlocutory Application No.451 of 2013 in Original Suit No.561 of 2013 by the Principal District Munsif Court, Madurai Town.



For Respondent No.1 : Mr.M.N.Sankaran

For Respondent No.2 : Mr.M.K.Rajagopal
(No appearance)


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ORDER

Impugning the fair and decretal order dated 07.08.2013 and made in Interlocutory Application No.451 of 2013 in O.S.No.561 of 2013 on the file of the learned Principal District Munsif, Madurai Town, this memorandum of Civil Revision Petition has been filed by the revision petitioners being the plaintiffs in the suit in O.S.No.561 of 2013.

2.The respondents herein are the defendants 1 and 2 in the suit. The revision petitioners appear to have been filed the suit in O.S.No.561 of 2013 on the file of the learned Principal District Munsif, Madurai Town as against the respondents 1 and 2 herein, seeking the reliefs of (i) declaring that the notice dated 05.06.2013 issued by the second defendant to convene the general body meeting of the first defendant society on 30.06.2013 is null and void and contrary to Section 26 of the Tamil Nadu Societies Registration Act, 1975 read with Rule 25 of the Tamil Nadu Societies Registration Rules, 1978 and for a consequential decree of permanent injunction restraining the defendants 1 and 2 from convening the general body meeting of the first defendant society on 30.06.2013 or any other date without 21 days clear notice to all the members of the first defendant society; and (ii) directing the defendants to pay to the plaintiffs the costs of the suit and other reliefs.

3.It also appears that alongwith the said suit, the revision petitioners 1 and 2 have filed an application in I.A.No.451 of 2013 for granting of temporary injunction as against the present office bearers of the first defendant society and the second defendant election committee from convening the general body meeting of the first defendant society on 30.06.2013 or any other date without 21 days clear notice to all the members of the first defendant society. The revision petitioners 1 and 2 herein being the plaintiffs are said to be the members of the first defendant society. This petition was resisted by the respondents by filing their respective counter statements and after hearing both sides, the learned Principal District Munsif, Madurai Town has proceeded to dismiss the petition in I.A.No.451 of 2013 on the ground that the learned Principal District Munsif, Madurai Town does not have jurisdiction to entertain the suit and thereby the interim injunction already granted was vacated. Challenging the legality and the correctness of the impugned order dated 07.08.2013, the revision petitioners being the plaintiffs, have approached the Court with the above said Civil Revision Petition.

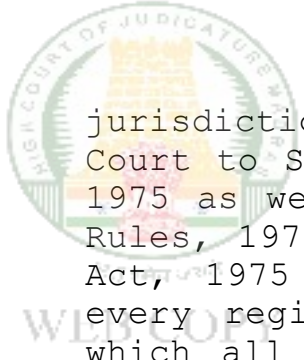


4.Mr.J.Barathan, learned counsel appearing for the revision petitioners/plaintiffs has argued that as per Ex.P.7, which is found place at page No.50 of the additional type set of papers, the Registered Office of the first respondent/first defendant has been functioning at Door No.44, First Floor, West Pandian Akil Street, Nethaji Road, Madurai - 625 001 and the Society's Registration Number is 47/2005 and therefore the suit has been filed on the file of the learned Principal District Munsif Court, Madurai Town. He has also demonstrated that now as per the contention of the first respondent, the office of the first respondent has also been functioning at Door No.1-1A, Saravanapoigai Street, Thirupparankundram.

5.He has also argued that as contemplated under Section 20 (b) of the Code of Civil Procedure, since in both places, the office of the first respondent has been functioning, the option is on the part of the revision petitioners/plaintiffs to choose the forum in which the suit is to be instituted and accordingly the revision petitioners have exercised their option to file the suit before the learned Principal District Munsif Court, Madurai Town and he has also contended that if at all the learned Principal District Munsif Court, Madurai Town has come to a conclusion that his Court does not have jurisdiction to entertain the suit while dismissing the application, the suit plaint also ought to have been returned with a direction to present it before the Court, which is having ample jurisdiction, but that was not done by the learned Principal District Munsif Court, Madurai Town.

6.While advancing his argument, the learned counsel appearing for the revision petitioners/ plaintiffs has also drawn the attention of this Court to the provisions of Clause (b) of Section 20 of the Code of Civil Procedure, 1908, wherein it enacts that any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or (c) the cause of action, wholly or in part, arises.

7.In this regard, he has also indicated that even as per the contention made by the learned counsel appearing for the first respondent, since their office has been functioning in both the places, one is at Door No.44, First Floor, West Pandian Akil Street, Nethaji Road, Madurai - 625 001 and the other one is at Door No.1-1A, Saravanapoigai Street, Thirupparankundram, the revision petitioners/plaintiffs have opted the jurisdiction of the learned Principal District Munsif Court, Madurai Town to file the suit which is absolutely maintainable and it ought not to have been returned with an observation that the said Court did not have

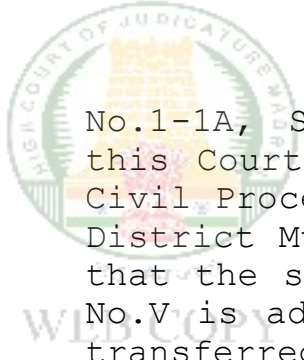


jurisdiction and further he has also drawn the attention of this Court to Section 13 of the Tamil Nadu Societies Registration Act, 1975 as well as Rule 15 of the Tamil Nadu Societies Registration Rules, 1978. Section 13 of the Tamil Nadu Societies Registration Act, 1975 deals with Registered Office. It contemplates that every registered society shall (i) have a registered office to which all communications and notices may be addressed and shall file with the Registrar notice of situation of such office and of any change thereof within such period as may be prescribed after the date of the registration of the society or after the date of change, as the case may be; (2) keep displayed on the outside of its registered office its name in a conspicuous position, in legible characters and, if the characters employed therefor are not those of Tamil, also in the characters of Tamil.

8. Rule 15 of the Tamil Nadu Societies Registration Rules, 1978 enacts that the notice of the situation of the registered office of the society and of any change thereof shall be in Form No.V. It shall be filed with the Registrar within [three months] from the date of registration of the society or after the date of change, as the date may be. In this regard, he has also pointed out that the Court below had erroneously observed in its order that the revision petitioners/plaintiffs had admitted in their plaint about the change in the office address. The lower Court had completely failed to understand the scope of Section 13 of the Tamil Nadu Societies Registration Act, 1975 and Rule 15 of the Tamil Nadu Societies Registration Rules, 1978.

9. When questioned about this as to whether the change of address of the office of the first respondent/first defendant has been intimated to the District Registrar of Societies as contemplated under Rule 15 of the Tamil Nadu Societies Registration Rules, 1978, Mr.M.N.Sankaran, learned counsel appearing for the first respondent/first defendant submitted that Form No.V has been filed with regard to the change of situation of the office before the District Registrar, Madurai and the same has been pending till date without any progress and in the meantime it is also brought to notice of this Court that the revision petitioners/ plaintiffs have also filed a writ petition in W.P(MD) No.11880 of 2013 seeking a writ of mandamus to forbear the first respondent therein i.e., the Registrar of Societies, Madurai South, Madurai from taking the declaration in Form VII under the Tamil Nadu Societies Registration Act, 1975 submitted by the respondents 3 to 5 on file and pass such other or further orders and the said writ petition is also still pending.

10. Now as submitted by the learned counsel appearing for both sides, this Court understands that the office of the first respondent/first defendant and 2/defendants 1 and 2 has been functioning in both places, one is at Door No.44, First Floor, West Pandian Akil Street, Nethaji Road, Madurai - 625 001 and other one is at Door



No.1-1A, Saravanapoigai Street, Thirupparankundram and therefore this Court finds as envisaged under Section 20(c) of the Code of Civil Procedure, 1908, the suit filed before the learned Principal District Munsif Court, Madurai Town is absolutely maintainable and that the said Court is having jurisdiction. The moment when Form No.V is admitted by the District Registrar, then the suit can be transferred to the learned District Munsif, Thirupparankundram only on the point of jurisdiction and as on date the suit is very well maintainable on the file of the learned Principal District Munsif Court, Madurai Town and therefore the impugned order passed by the learned Principal District Munsif Court, Madurai Town is hereby set aside and the Civil Revision Petition is allowed and I.A.No.451 of 2013 in O.S.No.561 of 2013 is allowed and the earlier order of interim injunction granted is to be maintained. The learned Principal District Munsif Court, Madurai Town is directed to dispose of the petition alongwith the main suit on merit as early as possible. No order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar

To

The Principal District Munsif Court,

Madurai Town, Madurai

+One cc to Mr.T.R.Jeyapalam, Advocate, SR.No.19489

+One cc to Mr.M.N.Sankaran, Advocate, SR.No.19634

+One cc to Mr.M.K.Rajagopal, Advocate, SR.No.19633

smn

RL/5 c- 16/5/2014

ORDER MADE IN
C.R.P(PD) (MD) No.1497 of 2013
and
M.P(MD) Nos.1 and 2 of 2013

28.03.2014