

A.S.(MD)No.218 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 08.03.2024

Delivered On : **30.05.2024**

CORAM

THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI

A.S.(MD)No.218 of 2022

and

C.M.P.(MD)Nos.9544 of 2022 and 10803 of 2023

C.M.S.Ivangelical Suvi David Memorial
Higher Secondary School Committee,
Karisal Register No.11/1967, New No.62/82,
Through its Secretary Mr.T.Solomon,
Karisalpatti, Cheranmahadevi,
Ambasamuthiram Taluk,
Tirunelveli District. ... Appellant
(Secretary of the sole appellant School committee
is substituted vide Court order dated 03.08.2023 made in
C.M.P(MD)No.8962 of 2023 in A.S.(MD)NO.218 of 2022
by KMSJ)

Vs.

- 1.The District Registrar,
Cheramahadevi Registration District,
Cheramahadevi,
Tirunelveli.
- 2.The District Educational Officer,
Cheranmahadevi,
Tirunelveli -1.
- 3.The Chief Educational Officer,
Kokkirakulam,
Tiruneveli District -9.



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4.The Government of Tamil Nadu
Through its Tirunelveli District Collector,
District Collector Office Campus,
Kokkirakulam,
Tirunelveli-9.

5.S.David Stephen

6.D.Paulraj

7.M.Pitchai

8.M.S.Densingh Raja

9.K.Samuvel

10.J.David

11.K.Dhasan

12.David

13.D.Palraj

14.S.R.C.Devapitchai

15.T.Jeyaveeran

16.D.Gabriel

17.D.Joseph

18.Thomas Walker

19.G.Yoshep

20.J.Isac Devamani

21.E.Jeyasekar Elisa

22.D.Seiman Mani

23.J.Millton Jebamanickam

24.D.Immanuel

25.S.Willam Packiyanathan

26.D.Renial Samuel

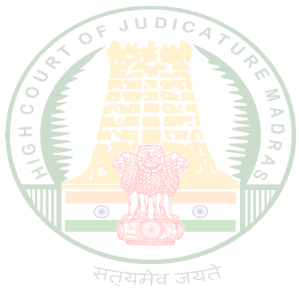
... Respondents

PRAYER : Appeal Suit is filed under Section 96 of Civil Procedure Code, to set aside the judgment and decree rendered in O.S.No.86 of 2018 dated 02.06.2022 on the file of the learned IV Additional District Judge, Tirunelveli.

For Appellant : Mr.M.S.Sureshkumar

For Respondents 5 & 18 : Mr.Issac Mohanlal, Senior Counsel

For M/s.Issac Chambers



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JUDGMENT

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This Appeal Suit has been filed as against the judgment and decree passed in O.S.No.86 of 2018, dated 02.06.2022, on the file of the learned IV Additional District Judge, Tirunelveli.

2.The appellant/plaintiff has filed the above suit claiming the following reliefs:-

“1. To declare the schedule mentioned Managing Committee as the valid Managing Committee of plaintiff Society.

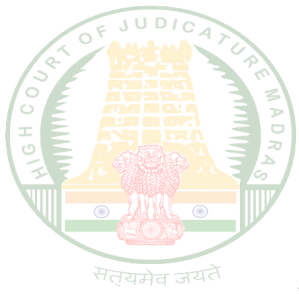
2. A permanent injunction restraining defendants 5 to 26, their associates and agents from interfering in the functioning of the Managing Committee.

3. To declare the Form VII submitted by the 18th defendant and registered by the first defendant on 01.04.2019, in connection with the election of Managing Committee for the year 2017-2020, as not valid in accordance with law.

4. To declare the Form VII submitted by the 18th defendant and registered by the 1st defendant, in connection with the removal of 5 members, including D. James (Treasurer), as not valid.

5. To declare the Form VII submitted by the 18th defendant and registered by the 1st defendant, which declares the election of 18th defendant as Treasurer, as invalid.

6. To declare the amended byelaw submitted by the 5th defendant and taken on file by the 1st defendant and said to be amended on 02.10.2000, as not valid.



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7. To declare the Form VI submitted by the 18th defendant and registered by the 1st respondent on 01.04.2019, as invalid.

8. To declare the Form V pertaining to change of address of Society submitted by the 18th defendant on 29.12.2017 and registered by the 1st defendant on 01.04.2019, as not valid.

9. To order the defendants to bear the cost of the suit.

10. Such other Orders, the Court may deem fit and proper in the circumstances of the case.”

3.For the sake of convenience and brevity, the parties will hereinafter be referred as per their status/ranking in the original suit.

4.The plaintiff's case, in short, is as follows:-

(i)The plaintiff Society was initially registered with the registration No. 11/1967 and subsequently, was assigned with a new registration No.62/1982. The office of the said Society is situated in Karisalpatti, Karisalpatti Post, via Cheranmadevi in Tirunelveli District. Any male residing at Karisalpatti who has attained 21 years of age, can become a member of the said Society. The Executive Committee members are elected for a period of 3 years and one among the members of the Executive Committee will be the Correspondent of the School run by the said Society. As per the Byelaw of the Society, the members of the Executive Committee must be 7 and if any one member is



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removed or has died then from the General Body, another person could be

elected for the Executive Committee. The said election for a member of the

Executive Committee should be done at least by 6 members of the General

Body and after such election, it would be submitted to the first defendant, that

is, the District Registrar within 3 months of such election in Form 7 along with

the resolution so passed. Similarly, if new members are added or removed, then

Form 6 has to be submitted within the stipulated time. Before the lapse of every

3 years, the new Executive Committee members should be elected. On

20.01.2018, proper notice was issued for a special General Body meeting, in

which 11 members of the General Body were present and by a majority, a

resolution was passed, wherein, the new Executive Committee members were

elected, who are described in the suit schedule as follows:-

- i. Mr. S. Yesubatham Samuel – President
- ii. Mr. C. Jebastin – Secretary
- iii. Mr. T. James – Treasurer
- iv. Mr. J. Devapichai Gnanaya – Correspondent
- v. Mr. P. Amos – Executive Committee member
- vi. Mr. S. Jeyakumar – Executive Committee member
- vii. Mr. G. Arul - Executive Committee member

(ii)The period for which, these Executive Committee members were elected was 2017-2020. The said election was intimated to the District



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Registrar by a proper Form 7 on 22.01.2018. The resolution regarding this aspect was also submitted to the first defendant.

(iii)The fifth defendant without any basis and acting as against the byelaws of the Society had included 18 persons as General Body members, by a fabricated document dated 18.03.1999. As he acted as against the then President Jebamani, the addition of 18 made by and presented by the fifth defendant was held to be not valid and the Executive Committee, which was elected by Jebamani was held to be valid by an order of the first defendant dated 13.11.2000. As against the said order, the fifth defendant preferred a Writ Petition before this Court in W.P.No.20121 of 2000, which was dismissed on 11.12.2001. The Writ Appeal in W.A.No.515 of 2008 was preferred by the fifth defendant, in which, it was held on 31.10.2008, that the Executive Committee elected by the 5th defendant on 24.11.1999 is not acceptable and the same was remanded to the learned Single Judge. Against the order of the said Writ Appeal, the fifth defendant preferred a Civil Appeal before the Hon'ble Apex Court in Civil Appeal Nos.5989 to 5989 of 2009 and an order was passed on 10.03.2012. As per the order of the Hon'ble Supreme Court, Form 7 is to be submitted by the defendants 5 and 18 to the District Registrar and the same has to be examined thoroughly. If the first defendant rejects Form 7 submitted by



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the defendants 5 and 18, both parties were given liberty to approach the civil court for relief. Such order of the civil court is binding on the first defendant District Registrar, until such order is passed, the first defendant is to administrate the plaintiff Society.

(iv)After the said order, the first defendant rejected Form 7 submitted by the defendants 5 and 18 vide, an order dated 14.05.2012 and was given liberty to approach civil court. Then, the fifth defendant preferred an Appeal before the Inspector General of Registration Department, wherein the first defendant, the District Registrar was directed to provide an opportunity of hearing to the parties and consider the case. In the very same order dated 13.07.2012, it was held that Form 7 was legally valid. As against the said order of I.G., Registration Department, the 18th defendant preferred a Writ Petition before this Court in W.P.(MD)No.12531 of 2012 and an interim order was passed. The 18th defendant has filed O.S.No.109 of 2012 before the District Court stating that the Committee comprising him elected by the General Body is legally valid and the persons recruited by the fifth defendant in C.M.S. Ivangelical Suvi David Memorial Higher Secondary School are not valid and sought a permanent injunction restraining defendants from intervening with Society's administration carried out by the such elected committee. The fifth defendant



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filed an Interlocutory Application in I.A.No.574 of 2015, claiming that the District Court has no jurisdiction to entertain the aforementioned suit and the said I.A.No.574 of 2015 was allowed on 05.11.2016. Against the aforementioned order, the 18th defendant preferred a Revision Petition before this Court. However, the revision petition was withdrawn by the 18th defendant. Since the revision petition was withdrawn, the present suit came to be filed by order in I.A.No.574 of 2015.

(v) Without the knowledge of the committee members, the defendants 5 and 18 colluded and withdrew W.P.No.12531 of 2012. Further, they conducted the Executive Committee of the Society and started recruiting as per their whims and fancies at the School acting as against the interest of the Society and its members. The defendants 5 and 18 along with the defendants 6 to 17 and the defendants 19 to 26 acted against the interest of the Society and the Byelaw and submitted Form 7 to District Registrar for the year 2017-2020, which is not valid. Before the submission of Form 7, no General Body meeting or an Executive Committee meeting was convened and no resolution was even passed. This was done against the interest of the plaintiff and only with an intention to create confusion as against the present Executive Committee, they also fabricated documents fraudulently.



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(vi) Since the defendants 5 and 18 colluded and acted against the interest of the Society with the intention to make monetary benefits, one of the Executive Committee members, named Mr. Amos preferred a Writ Petition before this Court in W.P.No.21094 of 2017, praying to prohibit the defendants 5 and 18 from doing such activities. An interim order was passed on 15.11.2017, reiterating that if any order is passed by the District Registrar on Form 7 submitted by the defendants 5 and 18, it is subject to the final order passed in the Writ Petition. Aware of the pending Writ petition, the defendants 5 and 18 in collusion with the defendants 6 to 17 and defendants 19 to 22, acted against the interest of the Society by fabricating documents. Consequently, the defendants 5 and 18 were removed from the Society's membership. Already when the 18th defendant while being a member of the Executive Committee and the fifth defendant David Stephen were removed from the Society according to its Rules. The fifth defendant never questioned this removal. The defendants are acting upon the incitement of the defendants 5 to 18, intending to sow chaos and confusion within the plaintiff Society. As a result, the Society is incurring significant losses, and its interests are harmed. The quality of education imparted, student enrollment, and school buildings are all affected. The aforesaid defendants 5 to 22 are interfering with the functioning of the

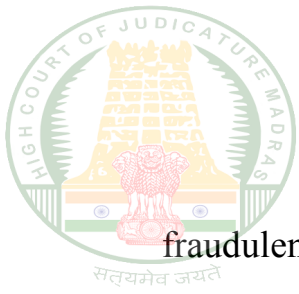


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Executive Committee, since the end of January 2018. Because of their activities

proper administration of the Society was made difficult. The activities of the defendants 5 to 22 are unlawful. Hence, this suit is filed praying for a declaratory relief to declare the Executive declare the Managing Committee mentioned in the plaint as legally valid, and for a permanent injunction restraining the defendants 5 to 22 and their agents from interfering with the functions of the plaintiff Society. The defendants 1 to 3 are Government officials, who are under the control of the fourth defendant, hence the defendants 1 to 4 are arrayed as parties in the suit.

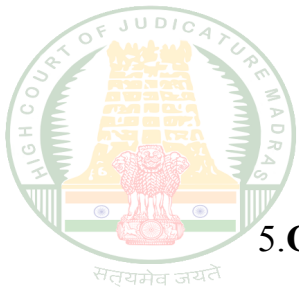
(vii) During the pendency of this suit, the defendants 5 and 18 passed various resolutions for the period 2017 - 2020 without convening a General Body meeting, without obtaining the signatures of the Society members and without the knowledge of other members. They passed these resolutions in their house and based on these resolutions, they prepared Form 7 and the 18th defendant submitted it to the 1st defendant, which was taken on file on 01.04.2019. In the said Form 7, it was mentioned that the 5th defendant as President and the 18th defendant as Secretary and Executive Committee comprising 10 members were mentioned. Subsequently stating that, the 18th defendant was elected as treasurer on 04.01.2018, another Form 7 was



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fraudulently fabricated and submitted to 1st defendant on 01.04.2019. Another Form 7 was also submitted stating that including D. James (Treasurer), 5 persons were removed on 04.01.2018, which was taken on file by the first on 01.04.2019. On 01.04.2019, Form 6 comprising 18 members was submitted by 18th defendant and that was also taken on file. The fifth defendant and 18th defendant did not hold any general body meeting or pass any resolutions as required by the Byelaw. Therefore, Form 7, Form 6 and Form 5 relating to change of Plaintiff Society's address, which were taken on file by the first defendant is unlawful. The plaintiff society's byelaws were amended unlawfully and fraudulently. The amended byelaw was dated 02.10.2000 and filed. This amended byelaw is not legally valid and cannot be implemented. In the written Statement filed by the defendants 5 to 8, 13, 15 to 22, it is stated that the defendants 23 and 24 as necessary parties, in Form 7 dated 01.04.2019, it was stated that the defendants 25 and 26 are members of the general body, the said Form 7 was submitted to the first defendant and was taken on file. Hence, I.A.No.5 of 2019 was filed, praying to add the defendants 23 to 26 as necessary parties and the same was allowed on 02.01.2020 and the plaint was amended. The defendants 23 to 26 are acting against the interest of the Society. Form 6 containing the names of the 23 to 26 defendants is not legally valid.



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5.Gist of the 1st and 4th defendant's defense :-

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(i)Initially the plaintiff Society was registered in Tirunelveli Registration District with registration No.11/1967. Subsequently, for administrative reasons Cheranmahadevi Registration District was created in 1982 and new number was assigned to it as 62/1982. As per the byelaw of the Society on completion of the financial year within 6 months, the General Body has to be convened and after obtaining the consensus, after a resolution is passed with regard to the accounts, it has to be submitted to the 1st defendant along with Form VI referring the total members of the Society. Further, if there is any change in the Executive Committee members, if new members are added or removed it has to be intimated by Form VII and submitted to the 1st defendant for taking it on file.

(ii)Till 1998-1999, the Society was functioning properly and the Forms were duly submitted. Subsequently, there were two factions, 5th defendant, David Stephen and 18th defendant, Thomas Walker. They started submitting Forms separately and civil suits were also filed. Since there were two factions, the reports submitted by the Society were not taken on file. Further, as per the order in Civil Appeal by the Hon'ble Supreme Court, Form VII submitted by the 5th defendant alone was taken on file. The 18th defendant obtained a stay order and subsequently there was a compromise between defendants 5 and 18



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and the Writ Petition filed by the 18th defendant was withdrawn. As there was a compromise, the Forms submitted by them were to be taken on file.

(iii) In the meanwhile, another member, A.P.Amos, filed a Writ Petition wherein by an order dated 15.11.2017, an interim stay was ordered observing that any proceedings subsequent to the filing of this Writ Petition will be subject to the outcome of the result in the said Writ Petition. As there was no stay to take the report on file and Forms submitted by defendants 5 and 18, and as there arose a doubt regarding taking the Forms on file, as per the directions given by the head of the Registration Department dated 07.12.2007, an enquiry was conducted. Further, as there was a delay in the submissions of the necessary Forms, the same has to be condoned by the Government and action has been initiated accordingly. Subsequently, after the compromise on 14.10.2017 an extra ordinary General Body meeting was convened and the Executive Committee member for the period 2017 - 2020 was elected and Form VII was submitted by the defendants 5 and 18. This Form VII is still pending and has not been taken on file. In the meanwhile, the present plaintiff Jebastin contending that they are the true Executive Committee members, placed on record that a Special General Body meeting was convened on 20.01.2008 and Executive Committee members were elected for three years, placed a list of the



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new members.

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(iv)At present the Society is now divided in two factions, one under the leadership of the 5th defendant David Stephen and Thomas Walker 18th defendant and another under the plaintiff Jebastin. The relief which has been prayed by the plaintiff cannot be granted by the 1st defendant and as per the circular issued by the Head of the Registration Department, if there are two factions and necessary reports are submitted by each of the factions for taking the same on file, unless the real committee members are decided by a Civil court, both the reports and Forms cannot be taken on file. Hence, this defendant has not taken on file the Forms submitted on either side. This defendant is ready to act and comply with an order to be passed in the suit.

6.The defense of the 5th defendant as adopted by the defendants 6 to 8, 13, 15 to 22, 23, 25 and 26 are as follows:-

(i)The suit filed by the plaintiff is not maintainable legally and in the interest of justice. The plaintiff has filed this vexatious suit concealing the many true basic facts with a bad intention to cause huge damage and loss to the defendant.The plaintiff is not entitled to the reliefs sought by him in the plaint. The plaint filed by the plaintiff is to be dismissed at the first instance itself. C.



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Jebastin claiming to be C.M.S. Ivangelical Suvi David Memorial Higher

Secondary School Committee Society's Secretary, filed this suit. He is neither a

General Body member nor an Executive Committee member. A person who is not a member or a secretary of the Society has no legal right to file this suit.

This suit is liable to be dismissed for this one reason. It's wrong to mention Jebastin as a Secretary of the Society in the short cause title and long cause title

of the plaint when he is not even a member of the Society. Moreover, the above said C.M.S. Ivangelical Society is a proper and necessary party to the suit.

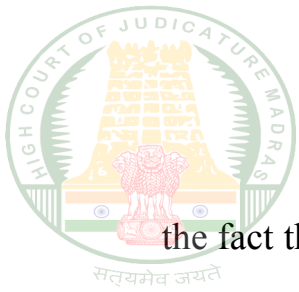
(ii) The facts in the plaint that, the plaintiff Association is a registered Association under the Tamil Nadu Registration Act, 1975, the registered number is 11/1967 and the new number is 62/1982 later, came into existence, having office at Karisal, Karisalpatti P.O., via Cheranmahadevi, Tirunelveli District. Any male who has attained the age of 21 years in Karisalpatti village also has the right of being a member in the association and the plaintiff association has more than 500 members. The Plaintiff association's administrative group select its members for once in a 3 year period and one of its administrative group member is elected as a Secretary of C.M.S. Ivangelical Suvi David Memorial Higher Secondary School and the administrative group members must be at least a member is the rule of the plaintiff Association. That



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apart, the administrative group members are re-elected, whenever an existing elected member is dismissed or dies during the 3-year tenure by a 2/3rd majority. On election, general body resolution and Form 7 under Tamil Nadu Registration Act must be filed within 3 months before the 1st defendant. Likewise, yearly adding of general body members and deletion of general body members in Form VI also to be filed within 3 months in 1st defendant's office. New Executive Committee members must be elected before the lapse of the tenure of existing Executive Committee.

(iii) It is false that on 20.01.2018, after notice, in Extraordinary General Body meeting, in the presence of 7 General Body members, as per the rules, the resolution was passed with sufficient majority and the said new elected members of the plaintiff Society and the new Secretary were elected. These facts are vehemently opposed by the defendants. Moreover, Mr.S.Yesubatham Samuel – President, Mr.C.Jebastin – Secretary, Mr.T.James – Treasurer, Mr.J.Devapichai Gnanaya – Correspondent, Mr.P.Amos – Executive Committee member, Mr.S.Jeyakumar – Executive Committee member, Mr.G.Arul – Executive Committee member are the Executive Committee members, who were elected for the period 2017-2020 and the same was submitted to 1st defendant in Form 7 on 22.01.2018 as per the procedure and



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the fact that a resolution was passed before the above-mentioned members were elected as Executive Committee members is false and completely denied by the defendants.

(iv)Initially on 03.07.1967, the Society was registered in the name of Karisal C.M.S. Ivangelical Suvi David Memorial High School Committee as per the Societies Registration Act with Regn. No. 11/1967. Subsequently, in the year 1982, it was upgraded as Karisal C.M.S. Ivangelical Suvi David Memorial Higher Secondary School Committee. This Society has a byelaw that was submitted to the District Registrar. The Society's list of members of General Body is submitted to the District Registrar every year. As per the Societies Registration Act, the notice is issued to the members of the General Body and the Executive Committee members are elected by way of election. The President, Secretary, Treasurer and Correspondent of this school are elected from among the Executive Committee members. For Executive Member election, Form 7 is submitted to the District Registrar, which will be taken on file by him. This Society's Executive committee manage and governs the above-mentioned School's administration completely. The plaintiff has concealed the fact that the byelaw amended in the year 1990, has been declared invalid in O.S.No.102 of 1994 by the District Court, Ambasamudiram and filed



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the said amended byelaw (Sub-Registrar copy) before this Court. It is clearly

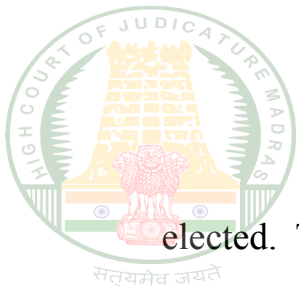
mentioned in Byelaw, the Rules by which a person can become a member of this Society, as per the same, to become a member an application has to be submitted to the Executive Committee. Accepting or rejecting the said application is purely the discretion of the Executive Committee. If the Executive Committee reject a petition of a person, such person can prefer an appeal before the General Body and the decision of the General Body will be final. The plaintiff in their plaint has claimed that there are more than 500 members in the Society, but there have never been more than 500 members at any point in time. If the list of members at the District Registrar's office is reviewed, the truth will be revealed. As per the Byelaw Rules, the Executive Committee has the authority to adjust the number of members of the Executive Committee as and when required. As per the Tamil Nadu Societies Registration Act, 1975 and Rules, 1978 and Rules of this Society's Byelaw, the Executive Committee will be elected by the General Body and the members for governing the Society will be elected from among Executive Committee members then Form 7 will be submitted to the District Registrar, which will be taken on file by him. But as per the plaintiff's assertion in plaint no.3, no one requested to convene a Special General Body Meeting on 20.01.2018 at the Society's office and no member of the Society placed any request before the Secretary to



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convene such Special General Body Meeting. On 20.09.2017, a request letter

was submitted by the members of the Society regarding convening an Extra-ordinary General Body meeting to pass a resolution pertaining to two groups working together and requesting to elect a new executive committee for the period 2017-2020. As per the request of the Society members, a notice was issued and on 14.10.2017, an Extra-ordinary General Body meeting was convened and new Executive Committee members and administrators were elected and Form 7 with required fees was submitted at the District Registrar's office. As per the plaintiff's assertion in plaint para no.3, no request was placed to convene a Special General Body Meeting on 20.01.2018. As per the Societies Registration Act and Society's Byelaw Rules, on 20.01.2018, no notice was issued to the members to convene a Special General Body Meeting, and no such Special General Body was also convened. As the plaintiff claimed, no election for the Executive Committee was conducted. The plaintiff fabricated documents against the rules of Society's By-law and Society's Registration Act, notices submitted at the District Registrar's office are not legally valid. As per the Tamil Nadu Societies Registration Act and Rules of this Society's Byelaw on 14.10.2017, notice was issued to the members of the Society and with all members, an Extra-ordinary General Body meeting was convened and in the meeting, members of the Executive Committee was



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elected. The members of the Executive Committee from among themselves

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elected President and Mr.S.David Stephen (5th defendant) as School Correspondent, Mr.S.Thomas Walker (18th defendant) as Secretary, Mr.T. James as Treasurer, Mr.M.S. Densingh Raja, Mr.T.Paulraj (8th defendant), Mr.J.Milton Jebamanikam (6th defendant), Mr.T.Immanuel, Mr.E.Jeyasekar Elisa, Mr.T.Myson (21st defendant), Mr.N.Yoseppu Peter as Executive Members, submitted Form 7 at the District Registrar's office by the 18th defendant. The Executive members elected by the defendants on 14.10.2017, are only legally valid. The plaintiff and his agents without any authority to convene meeting have elected the following

- i.Mr. S. Yesubatham Samuel – President
- ii.Mr. C. Jebastin – Secretary
- iii.Mr. T. James – Treasurer
- iv.Mr. J. Devapichai Gnanaya – Correspondent
- v.Mr. P. Amos – Executive Committee member
- vi.Mr. S. Jeyakumar – Executive Committee member
- vii.Mr. G. Arul - Executive Committee member

(v)The above-mentioned election is not legally valid. On 14.10.2017, as one of the elected Executive Committee members Mr.T.James acted against the Rules of the Society's Byelaw, action was taken against him and he was

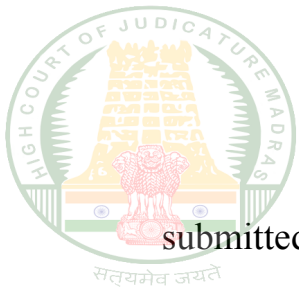


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removed from the post of Treasurer, Executive Committee, General Body.

Persons mentioned in the plaint namely, 1) Mr.S.Yesubatham Samuel, 2) Mr.C.Jebastin, 3) Mr.T.James, 4) Mr.J.Devapichai Gnanaya 5) Mr.P.Amos, 6) Mr.S.Jeyakumar – acted against the Rules of the Society's Byelaw, they were asked to give explanation, but they did not furnish any explanation. Hence, based on the majority decision, they were removed from General Body and Society's membership. This information was furnished to them as per procedure. Mr.G.Arul was elected as Correspondent from the Executive Committee members under the chairmanship of the defendants 5 and 6 and after that he did not get the post of Correspondent, so for that reason now he is acting with an ill intention to interfere with the functioning of defendant's Society. Hence, he resigned from the membership of the 5th and 6th defendant's management.

(vi)On 18.03.1999, 18 members were added to this Society and the District Registrar took on file all the names of the Society members of that financial year and passed an order. After that, the 5th defendant's tenure as treasurer expired after 3 years, so, on 24.11.1999, Executive Committee election was held and the results of the election were submitted at the District Registrar's office on 09.12.1999 with the required fee. Mr.G.Jebamani



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submitted Form 7 for the Executive Committee election that happened on 22.12.1999 at his helm, at the District Registrar's office and requested to take it on file. Regarding this, the fifth defendant submitted a petition before the Deputy Inspector General of Registration, Tirunelveli and the Inspector General of Registration, Chennai, requesting to take the election results submitted by the fifth defendant on file. On 13.11.2000, the District Registrar passed an order after hearing both parties regarding the validity of the election and claim of the members. The fifth defendant challenged this order of the District Registrar, by filing a Writ Petition before this Court and the said Writ petition was dismissed. An appeal was preferred against this dismissal order and in the appeal, a Full Bench order was passed by this Court regarding the authority of the District Registrar. After that, the Hon'ble Division Bench dismissed the fifth defendant's Writ Appeal. Since the Hon'ble Division Bench dismissal order is against the order of the Hon'ble Full Bench, the fifth defendant filed a Review Application in Rev.Aplc.No.12 of 2006, in which it was held that the District Registrar's order dated 13.11.2000, was set aside and passed an order as follows:-

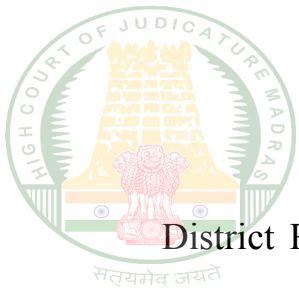
“It is clear on the perusal of records that the same issue was the subject matter of the batch of cases dealt with by the Hon'ble Full Bench. The Hon'ble Full Bench has observed that the Registrar has no powers to declare the election or set aside the election. In this



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case, the District Registrar passed an order declaring that the election held on 22.11.1999 is valid, by the order dated 13.11.2000. As per the Hon'ble Full Bench decision referred to above, this order passed by the District Registrar is non-est in law. Therefore, we make it clear, through this order, that the last sentences of the judgment under review i.e., we make it clear that the appellants can also challenge the order of the Registrar dated 13.11.2000, in the civil suit subject to the objections that may be raised by the respondents' stand deleted".

(vii)The plaintiff has suppressed the fact that this order of this Court and filed a false plaint. The plaintiffs have suppressed many court cases dishonestly and have filed this suit. Hence the plaintiffs have not filed this suit with clean hands. When the 5th and 6th defendant's elected Executive Committee was recognised, an Appeal was preferred and against the appeal order, the fifth defendant preferred Civil Appeal Nos.5989 to 5991 of 2009 before the Hon'ble Supreme Court and a stay was given against the order of W.A.No.515 of 2008. After that, for the period 2010 – 2013, the 5th defendant elected an Executive Committee but that was kept pending and not taken on file by the District Registrar because the Civil Appeal case was pending before the Hon'ble Supreme Court. The Hon'ble Supreme Court was pleased to pass an order reiterating that both sides, may submit Form 7 to the District Registrar, if the



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District Registrar accepts one of such Forms, such be taken on file and pass orders to the effect that the aggrieved party shall approach the Court and the District Registrar or civil court should not take the said Court's order into consideration. The plaintiff filed this suit suppressing the decision of the cases filed before this Court. Mr.C.Jesbastin has filed a petition before the District Registrar suppressing the orders of this Court, Mr.C.Jebastin has made false complaints to the District Registrar with the intention of causing confusion in the properly functioning society. In fact, Mr.C.Jebastin is not a member of the Society Committee of C.M.S. Ivangelical Sui David Memorial Higher Secondary School, he was not accepted as a member of the Society as well.

(viii)Mr.C.Jebastin, not being aware of any activities of the Society has given contradictory statemebts in the plaint. The plaintiff Society's elected Executive Committee for the year 2007-2008, Form 7 was taken on file by the District Registrar on 05.06.2008. A Writ Petition was filed challenging the same, which came to be dismissed, then an Appeal was preferred over the dismissal order and a final order was passed on the said Writ Appeal on 31.10.2008. The fifth defendant challenged the order of Writ Appeal before the Hon'ble Supreme Court. The Hon'ble Supreme Court was pleased to grant a stay order dated 16.01.2009, against the order of Writ Appeal dated 31.10.2008,



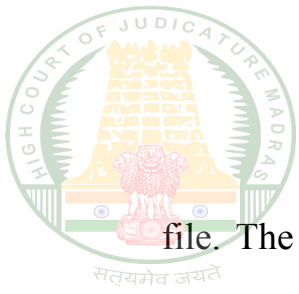
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which was passed by this Court.

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(ix)As per the Byelaw of the Society, the tenure of an Executive Committee is 3 years, since the said tenure has elapsed for the period 2007-2010 and for the period 2010-2013, notice was issued to the members of the Society and an election was held on 25.07.2010 and administrators and the members of Executive Committee were elected. Form 7 was submitted to the District Registrar to be taken on file, but that was not taken on file by the District Registrar citing the reason that the Civil Appeal case was pending before the Hon'ble Supreme Court, he passed an order rejecting the same. The 18th defendant also filed Form 7, but the District Registrar citing the same reason passed a rejection order.

(x)The Hon'ble Supreme Court in its final order, reiterated that both sides may submit Form 7 to the District Registrar, if the District Registrar accepts one of such Forms that shall be taken on file and pass orders to the effect that the aggrieved party shall approach the Court and the District Registrar or civil court should not take this Court's order into consideration. The District Registrar passed an order on 14.05.2012, without viewing any document. The order stated that the appropriate court orders are required for taking Form 7 on



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file. The Inspector General of Registration took the District Registrar's order

into consideration and passed an order dated 17.05.2015 to the effect that with

respect to taking Form 7 on file, the District Registrar must re-examine Form 7

considering Tamil Nadu Society's Registration Act and Rules and the order of

the Hon'ble Supreme Court. As per this order, the District Registrar issued

notice and heard the parties, examined documents submitted by the defendants

5 and 18 and passed an order on 13.07.2012 and after taking on file, Form 7

submitted by the fifth defendant. Against this order of the District Registrar, the

18th defendant obtained a stay from this Court. The 18th defendant filed a suit in

O.S.No.109 of 2012 before the Cheranmahadevi Civil Court and an order was

passed to the effect that under Section 2(B) of the Tamil Nadu Society's

Registration Act, this Court has no jurisdiction to entertain this Suit. As per the

Order of the Hon'ble Supreme Court, a detailed inquiry was conducted to take

on file Form 7 elected Executive Committee on 27.05.2010 for the year

2010-2013, and passed an order on 13.07.2012. The plaintiff has filed this suit

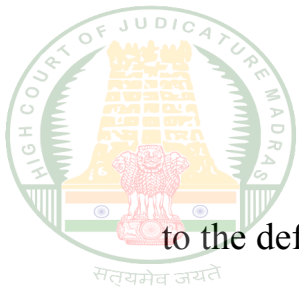
suppressing the order passed by the District Registrar concerning the Society

and the order passed by this Court in favour of the 5th defendant. The plaintiff

suppressed the fact that the Hon'ble Supreme Court had passed an order on

20.03.2012 reiterating that the order of this Court in the aforesaid Writ Petition

should not be taken into consideration and filed this suit intending to cause vex



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to the defendants.

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(xi) In fact, there is no necessity to issue a notice of General Body Meeting and Executive Committee, to Mr.C.Jebastin who is not a member of this Society. He was never a member of this Society. Mr.C.Jebastin with the intention of taking over the School has fabricated documents with the help of people who are not members of the Society and submitted them to the District Registrar acting against the Registration Act and Byelaw of this Society. Rules mentioned in Tamil Nadu Society's Registration Act, the Byelaw of the Society to convene a meeting, Executive Committee meeting has not been followed by the said C.Jebastin and has sent documents to the District Registrar, as if he has got all the powers. All the notices submitted by Mr.C.Jebastin to the District Registrar are false and not legally valid. The plaintiff has also added defendants, who are not members of the Society to the case. The defendants namely, Mr.K.Samuel, Mr.David, and Mr.K.Dasan were removed as members of the Society and the concerned Form has been submitted to the District Registrar. Milton Jeyamanickam, T.Immanuel, David, the 10th defendant general body members resigned by way of submitting a resignation letter and the said resignation letter was accepted by the Committee and they were removed and the details of the same were furnished to the District Registrar.



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This makes it explicit that by adding non members of the Society as defendants, the plaintiff has tried to obtain a Court order and use the same in their favour.

When they are not members of the Society, it is not possible for them to know details of the Society. Although C.M.S. Ivangelical Suvi David Memorial Secondary School Committee Society was registered and functioning well since 1999, it has been functioning as two separate groups because of which the growth and development of the Society have been affected. The development of the School run by the Society has been greatly affected and is very underdeveloped. Considering this the members of both parties jointly convened an Extraordinary General Body meeting and all the members of the General body submitted a signed request letter to the defendants 5 and 18 to elect a new Executive Committee, heeding to the request of the members of the Society to work as one peaceful team, the defendants 5 and 18 as per Tamil Nadu Societies Registration Act, issued a notice on 22.09.2017, to all the members to convene an Extraordinary General Body Meeting on 14.10.2017. A copy of the said notice was received by all the members. On 14.10.2017, a resolution was passed by the majority members to jointly elect a new Executive Committee. On 14.10.2017, the new Executive Committee was elected based on the unanimous resolution of the members and the list containing the names of Executive Committee and Executives. Form 7 was submitted to the District



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Registrar. Mr.T.Amos has signed the request letter requesting the two groups to come together as one unit to elect a new Executive Committee. Notice of convening an Extraordinary General Body Meeting was also received. Based on the decision of the majority members of the committee, a resolution was passed to the effect that the case filed by the parties should be withdrawn, following which, the 18th respondent withdrew the case, based on that resolution.

(xii)The District Registrar conducted an inquiry into the election of the Executive Committee conducted by the fifth defendant on 24.11.1999 and the election of Executive Committee conducted by C.Jebamani on 22.12.1999 and the District Registrar passed an order dated 13.11.2000, stating the election of Executive Committee conducted by the fifth defendant on 24.11.1999 is not valid and the election of Executive Committee conducted by the Jebamani on 22.12.1999 is valid.The opposite party informed the District Registrar that the fifth defendant was removed, based on his order dated 13.11.2000. The order of the District Registrar dated 13.11.2000, was challenged before the Hon'ble Division Bench of this Court. In its judgment, in Review Application No. 12 of 2006, this Court passed an order that the order of the District Registrar dated 13.11.2000, is not valid and there is no need to file a suit in the civil court



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against the order of the District Registrar. Thus, the said C.Jebamani has no legal authority to take action against the fifth defendant. The fifth respondent is also not required to take separate legal action.

(xiii) In the meanwhile, being aware of the fact that, on 14.10.2017, a new Executive Committee has been elected, suppressing this fact, Mr.P.Amos has filed a Writ Petition before this Court. This Court refused to grant stay sought by him. The defendants 5 and 18 were functioning as per law based on the majority resolution of the members. All functions were carried out as per the resolutions of the Society. The plaintiff claims that the defendants 5 and 18 were carrying out activities regarding the Society on their own, but that is not the case. All activities of the Society were carried out based on the resolutions passed after convening the committee. This non-member plaintiff has fabricated documents and filed a vexatious case, unable to accept the fact that two groups have joined as one unit to manage the Society. No harm or damage has been caused to the plaintiff by the lawful functioning of the Executive Committee elected by the defendants. After filing the case in the Court, the plaintiff has published an advertisement in the Dinamalar Newspaper causing mental distress and defamation to the defendants. A reply notice to the same was published by the defendants as well. This indicates that C.Jebastin, who has no

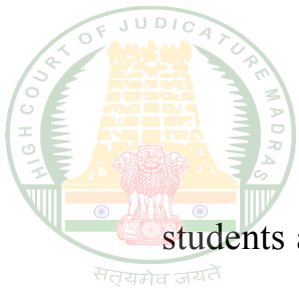


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authority from the court, is attempting to take control of the plaintiff Society School for his own gain.

7.The defense of the 12th defendant is as follows:-

The defendants 5 and 18 are the relatives of this defendant and they were in a cordial relationship until 1998. After 1998, the relationship between 5th defendant and this defendant was strained. In 1998, the 5th defendant formed a Committee with 18 members in which 12th defendant was also a member. Form VII was submitted before the District Registrar and later rejected stating that the committee formed by the 5th defendant is invalid. In 2001, this defendant came to know about the authorised committee under the Presidency of Jebamani, who took disciplinary action against the 5th defendant and ousted 5th defendant in 1998. Without knowing the ill intention of the 5th defendant, this defendant along with 16 others, was misled by the 5th defendant. This defendant has relieved himself from the illegal committee formed by the 5th defendant and the records maintained by the 5th defendant are fabricated and are maintained in his dwelling house. In 2017, the defendants 5 and 18 have colluded together with a dishonest intention to make money, by appointing teaching and non teaching staff, in the school managed by the Society. Because of lack of maintenance, the condition of the school building is endangering the life of



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students and the defendants 5 and 18 have mishandled the funds of School and the Church. Hence, this defendant prays that the court be pleased to pronounce an order in the interest of the school administration.

8.The defense of the 24th defendant is as follows:-

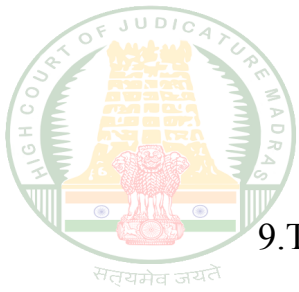
(i)The suit filed by the plaintiff is a vexatious one and filed only with an intention to interfere with the functioning of the Executive Committee of the Society duly elected. This defendant is an Executive Committee member elected as per law on 14.10.2017. This election has been accepted and taken on file by the 1st defendant. The plaintiff is not even a member of the Society in 2017, he cannot question the Form VII submitted and taken on file by the 1st defendant. By giving proper notice for convening a meeting and on a majority of members having been present, the election was conducted. The prayer or the reliefs as averred and referred in the plaint are defective. The plaintiff has prayed that D.James and 5 others, without the referring the name of the other 5 persons and not even arraying them as parties to the suit. The plaintiff cannot on his own seek a relief for those persons who are not before this court. The 18th defendant, Thomas Walker, is the Secretary of the Society and the Secretary has sent a notice to those persons as well as George Mani Selvan on 23.12.2017 seeking an explanation. Though the plaintiff knew about this fact



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he has suppressed the same. James was removed from the post of Treasurer on 04.01.2018 and 18th defendant was elected as the Treasurer.

(ii) Only after convening a meeting, by giving notice to all the members of the general body, a special General Body meeting was conducted and the old byelaw was amended as on 02.10.2000. A resolution was also passed and the amended byelaw was submitted to the 1st defendant. As averred by the plaintiff there has been no violation of the byelaw or the Societies Registration Act. Every year, as per the Societies Registration Act, Form VI has to be submitted mentioning the number of members in the Society. Further, Form VI has to be submitted, for every financial year from April to March. Till date Form VI has been submitted by the Society and the name of Jebastin does not find place in the above. The plaintiff has himself created a document to the effect that, he is the member of the Society and this Form has not been taken on file by the District Registrar. The Society has been functioning properly following rules and byelaw, for every three years the members of the General Body were given notice and thereafter, the Executive Committee members were elected, the necessary Forms were submitted and taken on file by the District Registrar. Hence, the suit needs to be dismissed with cost.



9.The learned Trial Court, upon considering the aforesaid pleadings has framed the following issues:-

“1.Whether the plaintiff is entitled for the relief of declaration that the plaintiff committee is a legally constituted one?

2.Whether the plaintiff is entitled for the relief of permanent injunction against defendants 5 to 26 as prayed for?

3.Whether the plaintiff is entitled for the relief of declaration that Form VII filed in relation to the election for the governing counsel for the period 2017-2020 made by the 1st defendant dated 01.04.2019 is illegal and unenforceable?

4.Whether the plaintiff is entitled for the relief of declaration that Form VII filed by 18th defendant submitted by 1st defendant on 01.04.2019 regarding the removal of 5 persons including D. James (Treasurer) on 04.01.2018 is illegal and unenforceable?

5.Whether the plaintiff is entitled for the relief of declaration that Form VII presented by 1st defendant on 01.04.2019 for electing the 18th defendant as treasurer is illegal and unenforceable?

6.Whether the plaintiff is entitled for the relief of declaration that the amended byelaws of the committee said to have been amended on 02.10.2000 by the 5th defendant filed by 1st defendant on 01.04.2019 illegal and unenforceable?

7.Whether the plaintiff is entitled for the relief of declaration that Form VI filed by 18th defendant and presented by 1st defendant on 01.04.2019 is illegal and unenforceable?



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8. *Whether the plaintiff is entitled for the relief of declaration that Form V presented by 18th defendant on 29.12.2017 filed by the 1st defendant on 01.04.2019 regarding the change of address of the association is illegal and unenforceable?*

9. *Whether the contention of the 1st defendant that the 1st defendant is not empowered by the Act to grant the reliefs prayed by the plaintiff is correct?*

10. *Whether the suit is bad for Non-joinder of C.M.S. Ivangelical Society as party in suit?*

11. *Whether the contention of the 5th defendant that the plaintiff has filed this suit by suppressing the resolution passed by the committee is true?*

12. *Whether this suit is bad for Mis-joinder of parties?*

13. *Whether this suit is barred by the principles of res judicata?*

14. *To what other reliefs the plaintiff is entitled to?"*

10. Jebastin was examined as P.W.1 on behalf of plaintiff's Society, Ex.A1 to Ex.A103 were marked. The treasurer of the plaintiff's Society, namely, James, was examined as P.W.2 and Ex.A104 to Ex.A111 were marked. During the cross examination of D.W.3, Ex.A112 was marked. In the cross examination of P.W.1, Ex.B1 to Ex.B49 were marked. On the side of defendants 1 to 4, the District Registrar, Packiam, was examined as D.W.1 and Ex.B50 and Ex.B51 were marked. During the cross examination of D.W.1 on



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the side of 5th defendant, Ex.B52 was marked. 12th defendant was examined as D.W.2 and no documents were submitted on his side. The 5th defendant was examined as D.W.3 and Ex.B53 to B71 were marked.

11.The learned Trial Judge upon considering the pleadings and the evidence both oral and documentary and on hearing the arguments of both sides, has passed the judgment and decree dated 02.06.2022, by answering all the issues as against the plaintiffs thereby, dismissing the suit. Aggrieved by the impugned judgment and decree, the plaintiff's Society has preferred the present Appeal Suit.

Submissions:-

12.The learned counsel appearing for the appellant/plaintiff submitted that, the plaintiff Society is registered under the Tamil Nadu Societies Registration Act, 1975. The 1st prayer of the suit, is to declare that the plaintiff committee is the validly elected committee for the school administration for the period 2017 – 2020 and the 3rd prayer (Ex.A80) is to declare that the Form-VII filed by 18th defendant and approved on 01.04.2019 by the 1st defendant, for the elected body for the period 2017 – 2020, is to be declared as null and void and the 4th prayer (Ex.A81) is to declare the Form-VII approved by the 1st

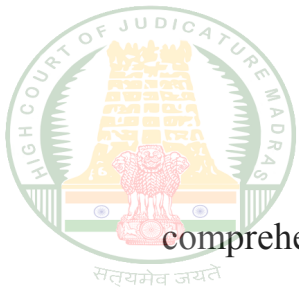


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defendant on 01.04.2019 and filed by the 18th defendant, to remove the 5 members of the plaintiff committee as null and void, the 5th prayer (Ex.A82) is to declare that the approval given by the 1st defendant on 01.04.2019 and accepting the 18th defendant as a Treasurer of the said committee to be null and void, and the 6th prayer (Ex.A83) that the amended byelaw dated 02.10.2000 submitted by the 5th defendant and approved by the 1st defendant on 01.04.2019 as null and void, and the 7th prayer (Ex.A84) is to declare that the Form-VI filed by 18th defendant and approved by the 1st defendant on 01.04.2019 as null and void and the 8th prayer (Ex.A85) is to declare that the Form-V submitted by 18th defendant on 29.12.2017 and approved by the 1st defendant on 01.04.2019 is to be declared as null and void.

13.In spite of the several orders by this Madurai Bench of Madras High Court, directing the Learned Trial Judge to dispose of the suit in O.S.No.86 of 2018 within a period of 8 months, defendants 5 and 18 successfully dragged the case by seeking several adjournments in order to submit to the Court that the 3 years period i.e., 2017 - 2020 is completed and therefore, the suit is infructuous.

14.The plaintiff has come forward not for the only prayer to declare that they are the elected body for the period 2017 - 2020, but there are other



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comprehensive declaratory prayers and therefore the suit cannot be non suited

on the ground of completion of the three years period. The plaintiff having seen that the rival groups existed from 1999 between 5th defendant on one side and the 18th defendant on the other side, thought it fit to form a separate general council members, who are already members supporting the 18th defendant and to conduct election in order to run the school administration smoothly and also to develop the school building. Therefore, on 16.10.2017, the plaintiff, who is a member from 28.09.2016 (Ex.A13), gave a complaint (Ex.A16) to the 1st defendant with regard to the illegalities and swindling of the school funds by the 5th and 18th defendants. No enquiry was done by the 1st defendant as contemplated under Section 36 of the Act. The group led by the plaintiff also gave a complaint to the 1st defendant to the effect that the defendants 5 and 18 should not amalgamate without following the procedures under the Act, these complaints under Ex.A18, Ex.A22, A24, A26, A28, A30 and A50 were given to the 1st defendant, but there was no enquiry.

15.To prove the case of the plaintiff that, he is a duly elected body following the procedures under the Act, the general body convened a meeting on 11.12.2017 (Ex.A33) stating that the plaintiff Society shall conduct an election on 06.01.2018 for the period 2017 - 2020. Six of the members, who



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were already under the 18th defendant came out separately and convened the meeting. The quorum to convene the general body is 6 members and therefore it is valid as per the byelaw (Ex.A1). Under Ex.A34, the notice regarding the election on 06.01.2018 was given to the other members including the 18th defendant under Ex.A34, which has been acknowledged by all the other members. Under Ex.A16, the plaintiff had made a complaint to the 1st defendant that the 18th defendant has refused to submit the records and ledgers, due to the fact that the 18th defendant orally informed that the plaintiff is not a member and had been removed. Therefore, for abundant caution, the plaintiff under Ex.A45 dated 06.01.2018 once again paid the subscription for membership. This does not mean that the plaintiff had become a member only from 06.01.2018. But, in fact, as per Ex.A13 the plaintiff is a member from 28.09.2016, which was not considered by the Court below. The plaintiff after giving proper notice to conduct the election on 06.01.2018, as per Ex. A33, could not conduct on the same date and it was postponed to 20.01.2018, which is also allowed under the provisions of the Societies Registration Act 1975 (hereinafter refer to as the 'Act'). As per Ex.A53 dated 22.01.2018, the plaintiff as the elected Secretary of the school Committee, submitted to the 1st defendant for approval. It was kept pending along with Ex.A53, Ex.A63, which is, the Form VI, showing the members list of the plaintiff group. Therefore, the



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provisions of the Act were followed and duly elected body i.e. the school Committee was formed by legally conducting election and the same has been proved by the plaintiff under Section 101 of the Evidence Act.

16.The 5th defendant, who is not a member as per Ex.A6 dated 13.11.2000, had fabricated documents and without conducting any election or a general body, it is alleged that on 20.09.2017, as per Ex.B13 the defendants 5 and 18 wanted to join together after withdrawing all the cases between them forming one group. Without dissolving the two rival groups each represented by the defendants 5 and 18 and without following the provisions of the Act, it seems that the members under the two rival groups totally 22 members have made a request. In this request, that is, Ex.B13, it is the specific case of the plaintiff (P.W.1) and D.James, who deposed as P.W.2 that they have not signed in Ex.B13. Further, after the Ex.B13 request letter given to the rival groups by the general council, Ex.B14 is a notice to conduct the election by the defendants 5 and 18 on 14.10.2017. According to the defendants 5 and 18, they have declared themselves as the elected school Committee from 14.10.2017 for 3 years period 2017 - 2020 and they have submitted the Form-VII to the 1st defendant. But the 1st defendant has accepted and approved the Form-VII filed by the 5th defendant on 01.04.2019 under Ex.A80 by giving reason that the Writ



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Petition filed by one Aamos in W.P.(MD).No.21094 of 2017 was disposed of

on 03.04.2019 under Ex.A86. But at the same time, the 1st defendant, who had filed a written statement in O.S.No.86 of 2018 on 22.02.2021 at Para 15 of the statement had stated that according to the circular 7/11 dated 20.07.2011 issued by the Inspector General of Registration, both the forms filed by the plaintiff as well as by the defendants 5 and 18 have not been approved and were kept pending. Further, D.W.1 deposing for the 1st defendant has stated in cross examination that she had filed vakalat for 1st defendant on 08.05.2018 and therefore, she admits the knowledge of pendency of O.S.No.86 of 2018. Due to the bias attitude and obtaining of illegal gratification by the 1st defendant, a member of the plaintiff group filed Writ Petition in W.P.(MD).No.10928 of 2020 against the 1st defendant seeking to direct the Director of Vigilance and Anti-Corruption to initiate action against D.W.1. The said Writ Petition in W.P.(MD).No.10928 of 2020 by order dated 12.06.2023 has directed the Inspector General of Registration to enquire D.W.1, who was arrayed as 8th respondent in the above Writ Petition.

17.The defendants 5 and 18, who are well versed in fabricating and creating the document is evident right from the orders of the Hon'ble Court under Ex.A106, wherein this Court has directed the Inspector General of



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Registration to conduct an enquiry with regard to the irregularities in the entire

file given by the 5th defendant. The 18th defendant has stated in the plaint in

O.S.No.109 of 2012 under Ex.A12 to the effect that in Para No.7 of the plaint

in particular that, the 5th defendant has been fabricating the documents without

conducting the General Body meeting or any election for the office bearers.

Further to prove the fabrication and the illegalities by the defendants 5 and 18,

they have gone to the extent of filing a forged typed set under Ex.A112 in W.P.

(MD) No.21094 of 2017 before this Court and had prepared another Ex.B13 &

Ex.B14 for the purpose of the case. The comparison by naked eye with regard

to the Ex.B13 and Ex.B14 marked in O.S.No.86 of 2018 and to that of the Ex

A112 filed in W.P.(MD).No.21094 of 2017, the order of signature varies and in

Ex.A112 there are only 10 signatures, but in Ex.B14 there are 11 signatures and

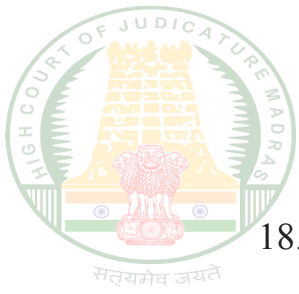
therefore they have committed perjury, by fabricating the documents and filing

the same before this Court. The plaintiff to prove that, it is a forged document

has extracted the evidence of D.W.3 in O.S.No.86 of 2018 and the 5th

defendant as D.W.3, who have stated that

“பி.சா.ஆ 14 மற்றும் பி.சா.ஆ15 ஆகியவை எங்கள் தரப்பில்
தாக்கல் செய்த பொது குழு கூட்ட அறிவிப்பு மற்றும் தீர்மான நகல்
என்றால் சரிதான் பி.சா.ஆ14ல் நகல் தான் வா.சா.ஆ.112-ல்
நீதிப்பேராணை மனுவுடன் தாக்கல் செய்யப்பட்டுள்ளது என்றால்
சரிதான்.”



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18.Hence, the plaintiff has proved the forgery and fabrication of the documents created for the purpose of the case by the defendants 5 and 18 and the burden shifts on the defendants to rebut the same.

19.Yet another point proved by the plaintiff that the alleged election conducted by the 5th and 18th defendants is against the Rule 6 of the byelaw (Ex.AI) is also proved. According to Ex.A107 dated 14.10.2017, which is the General Body meeting of the defendants 5 and 18, shows that the number of the general body members is 22. According to the Ex.AI byelaw, the maximum number of members to be in the general body cannot be more than 12. Therefore, the general body meeting itself is against the byelaw. According to Rule 6 of the byelaw, the office bearers i.e., the President, Secretary and the Treasurer must be elected only by the office bearers of the Executive Committee. According to Ex.A108, it will clearly show that the 5th defendant and the 18th defendant were not elected by one among the office bearers of the Executive Committee and therefore, the election for the 2017 - 2020 period is null and void and illegal.

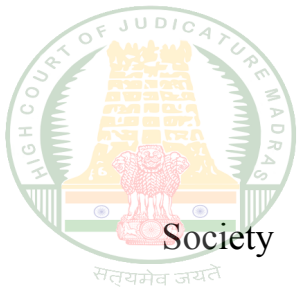
20.These aspects were not framed as an issue by the Trial Court despite the evidence by P.W.1, P.W.2 and also the pleadings by the plaintiff with



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regard to the fabrication of the documents. This is against Order 14 of the Civil Procedure Code. When the plaintiff has proved his case by ample documents and evidence that he is the genuinely elected body representing the association and the plaintiff having proved the fabrication of documents in order to claim the post of Office Bearers by the defendants 5 and 18, the prayer and other comprehensive prayers made by the plaintiff in O.S.No.86 of 2018 has to be granted and so-called election declaring themselves by fabricating the documents by the defendants 5 and 18 is proved by the plaintiff as fabricated and therefore, their Form-VI and Form-VII has to be declared null and void for the period 2017 - 2020. If the Form-VII is declared as null and void for the year 2017 - 2020, then the subsequent period claimed by the defendants 5 and 18 declaring themselves as the elected body for the subsequent 3 years period could not have legs to stand, since the earlier period itself is declared as null and void, due to fabrication of documents. Therefore, the judgment and decree of the learned Trial Court in O.S.No.86 of 2018 has to be set aside.

21.Per contra the learned Senior Counsel appearing for the respondents 5 and 18 submitted that the C.M.S. Ivangelical Suvi David Memorial Higher Secondary School Committee, Karisal, that is, the Society registered on 03.07.1967, is governed by its byelaws. Presently, the General Body of the



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Society comprises of 22 members. The Society is administered by the Executive Committee comprising 7 members elected by the General Body once in three years. The Executive Committee would elect President, Secretary, Treasurer for the Society and a Correspondent for the School from among the members of the Society for the C.M.S. Ivangelical Suvi David Memorial Higher Secondary School at Karisalpatti, the Society. On 02.11.1996, election for the Triennium 1996 – 1999 was conducted. The 4th defendant was elected as Secretary. On 18.03.1999, the Executive Committee admitted 18 members to the Society. The District Registrar approved the same. Election for the Triennium 1999 – 2002 was conducted on 24.11.1999. The fifth defendant again got elected as Secretary and one G.Arul was elected as President. Thereafter, Form VII was submitted to the District Registrar on 09.12.1999.

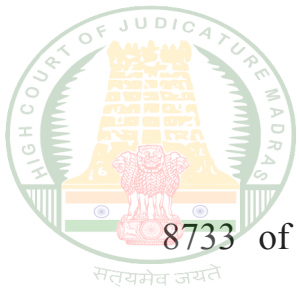
21.1. In the meanwhile, the 18th defendant S.Thomas Walker filed another Form VII allegedly conducting election on 22.12.1999. The Registrar erroneously approved the Form VII of S.Thomas Walker. While so, on 25.08.2000, the 5th defendant filed W.P.No.14402 of 2000 challenging the registration of Form VII in favour of Thomas Walker, that is, the 18th defendant and the same was disposed with the direction to file an appeal before the appellate authority, that is, the Inspector General of Registration. Appeal was



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preferred to the Inspector General of Registration and he directed the District Registrar to conduct a fresh enquiry. Following which on 13.11.2000, the District Registrar examined the validity of the said two elections and passed an order holding that the election allegedly conducted by the group of 18th defendant on 22.12.1999 as valid and the election conducted by the 5th defendant on 24.11.1999 as invalid.

21.2. Aggrieved by the order of the Registrar, the 5th defendant filed Writ Petition No.20121 of 2000 and another member J.David also filed Writ Petition No.1701 of 2001. On 11.12.2001, the learned Single Judge dismissed both the Writ Petitions by a common order. The 5th defendant as well as J.David filed Writ Appeal Nos.2969 of 2001 and 331 of 2002 respectively. The matter was referred to the Hon'ble Full Bench with the reference 'whether Section 36 of the Tamil Nadu Societies Registration Act, 1975, vested the Registrar of the Societies with the power to decide election disputes?'. On 24.03.2005, the Hon'ble Full Bench of this Court ruled that the District Registrar had no power to decide election disputes in exercise of power under Section 36 of the Act and that election disputes could be decided only by the competent Civil Court. The Hon'ble Full Bench then directed the Writ Appeals to be placed before the Division Bench for disposal. Thereafter, the 1st defendant filed a W.P.(MD)No.



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8733 of 2005 seeking for a direction to register the Form VII allegedly

submitted by him on 01.10.2002 and other returns submitted from 1999 onwards. The same was dismissed by an order dated 24.09.2008. The Hon'ble Division Bench without quashing the impugned order issued by the District Registrar dated 13.11.2000, dismissed the Writ Appeals by order dated 14.09.2005 by giving liberty to the parties to approach the Civil Court. Against which the 5th defendant filed Review Petition No.12 of 2006. On 21.02.2006, the Hon'ble Division Bench allowed the Review Petition and held that the order of District Registrar dated 13.11.2000 (approving the Form-VII in favour of the S.Thomas Walker group) as non-est in law and further held that the said order of the District Registrar need not be challenged in Civil Court. However, the Hon'ble Court further directed the parties to approach the Civil Court regarding the other issues. While so, on 25.02.2006, the General Body conducted election for the period 2006 - 2009. The 5th defendant again got elected as Secretary, M.John Deva Pitchai was elected as President and G.Arul as Correspondent of the school. Following which, on 27.02.2006, Form VII was filed before District Registrar. The District Registrar registered the Form- VII for the period 2006 – 2010 on 27.06.2006.

22.Challenging the registration of Form VII, on 28.07.2006 the 18th



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defendant filed W.P.No.5664 of 2006 and this Court was pleased to set aside

the same and remitted back the matter to the District Registrar for fresh consideration after hearing either parties. Thereafter, on 11.09.2006, the District Registrar declined to register the Form VII filed by either parties and directed the parties to approach the Civil Court. Hence, both the defendants 5 and 18, that is, S.David Stephen and S.Thomas Walker filed W.P.(MD)Nos. 10187 of 2006 and 8717 of 2006 respectively challenging the proceedings dated 11.09.2006. This Court dismissed both the Writ Petitions directing the parties to approach Civil Court, on 24.09.2007. Aggrieved over the same, S.David Stephen filed W.A.(MD).No.636 of 2007 and S.Thomas Walker filed W.A.(MD)Nos.496 & 497 of 2007. On 28.11.2007, the Hon'ble Division Bench of this Court dismissed the Writ Appeals by common order and directed the parties to approach the Civil Court. This Court further directed the D.E.O., Cheranmahadevi, to disburse the salary to the teaching and non-teaching staff of the School and to oversee the Management and administration of the School.

22.1.While so, on 05.06.2008, the District Registrar registered the Form VII in favour of David Stephen as per the subsequent election. Consequently, the D.E.O. registered the Correspondentship of G.Arul on the side of 5th defendant on 12.08.2008. S.Thomas Walker filed W.P.(MD)No.6430 of 2008



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challenging the aforesaid order of the District Registrar approving this respondent's Form-VII and also filed W.P.(MD)No.8596 of 2008 challenging the order of the District Educational Officer, Cheranmahadevi dated 12.08.2008 approving G.Arul as Correspondent. This Court dismissed both the Writ Petitions on 24.07.2008. S.Thomas Walker filed W.A.(MD)No.515 of 2008 against dismissal of W.P.(MD)No.6430 of 2008 and also filed Review Application(MD)Nos.47 & 48 of 2008 against the dismissal of Writ Appeal Nos.496 of 2007 and 497 of 2007. On 31.10.2008, the Hon'ble Division Bench allowed the Writ Appeal and the Review Applications and remitted the matter back to the learned Single Judge to dispose of the matter on merits. As against the same, on 16.01.2009, S.David Stephen filed Special Leave Appeal (Civil) C.C.Nos.238 - 240 of 2009 before the Hon'ble Supreme Court and stay was granted by the Hon'ble Supreme Court. As such S.David Stephen continued as Secretary of the Society and G.Arul continued as Correspondent of the School. As the triennium 2007 - 2010 came to an end, on 05.05.2010, the Society issued notice for convening General Body on 27.05.2010 to elect the next Executive Committee for the triennium 2010 – 2013.

22.2. Thereafter, on 27.05.2010, the General Body elected the Executive Committee Members to the Society. S.David Stephen was again elected as



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Secretary and G.Arul was elected as Correspondent. No challenge was made to

the election by S.Thomas Walker. The District Registrar vide proceedings in

Na.Ka.No.1498/A2/2010 dated 12.07.2010 returned the Form-VII stating that

cases are pending before the Hon'ble Supreme Court. S.David Stephen filed

W.P.(MD)No.9995 of 2010 challenging the proceedings of District Registrar

dated 12.07.2010. The Hon'ble Supreme Court in the mean while, on

10.03.2012, passed a consent order permitting S.David Stephen to re-submit the

returned Form- VII within a period of 2 weeks and further directed the District

Registrar to hold an enquiry into the matter uninfluenced by the impugned

judgment and satisfy as regards the particulars furnished in Form- VII by

S.David Stephen and Form-VII submitted by S.Thomas Walker on 23.01.2012.

The Hon'ble Court, further held that on completion of enquiry, if the District

Registrar accepts one such Forms, the aggrieved party shall be at liberty to

approach the civil court. As directed by the Hon'ble Supreme Court, S.David

Stephen re-submitted the Form-VII to the District Registrar, on 31.03.2012.

The District Registrar rejected the Form- VII submitted by both the parties, vide

proceedings in Na.Ka.No.224/12/2012 dated 14.05.2012. The copy of the said

proceedings was marked to the Inspector General of Registration. The IG of

Registration vide proceedings, in Na. Ka. No.16739/12/2012 dated 17.05.2012,

directed the District Registrar to pass order afresh by holding fresh enquiry by



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affording opportunity to both the parties in the light of the Supreme Court order. The District Registrar after detailed enquiry registered the Form VII filed by S.David Stephen vide proceedings in Na. Ka. No.224/A2/2012, dated 13-07-2018. Consequently, the D.E.O. registered G.Arul as Correspondent of the School vide proceedings dated 11.08.2012.

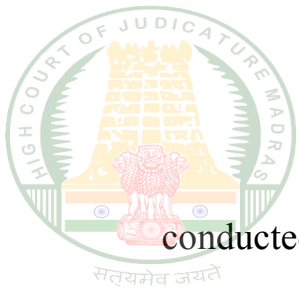
22.3.As against the registration of Form VII and correspondentship, S.Thomas Walker filed W.P.(MD) Nos. 12531 and 14532 of 2012, respectively. S. Thomas Walker also filed O.S.No.109 of 2012 on the file of the District Munsif, Court, Cheranmahadevi to declare the elections held by him on 22.12.1999, 21.09.2002, 03.12.2005, 20.12.2008 and 28.12.2011 as valid one. During the pendency of above case, S. David Stephen continued in administration and after completion of the Triennium 2010-2013, the election for the period 2013-2016 was also conducted by him and the Form VII was also submitted to the District Registrar. The District Registrar kept the registration of the Form VII in abeyance, citing the pending Writ Petitions and Civil Suit instituted by S. Thomas Walker. While so, on 20.09.2017, a compromise arrived between the groups and resolved to jointly convene an Extraordinary General Body Meeting for electing new Office bearers and Executive Committee members. Following which, on 22.09.2017, 21 days notice was



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given for convening the Extraordinary General Body meeting on 14.10.2017

and served to all the 22 members of the Society. The General Body met, on 14.10.2017, in which 17 members (out of 22) participated and elected new Executive Committee for the triennium 2017-2020. Form VII regarding the election was submitted to the 1st respondent District Registrar under Rule 17 of the Societies Registration Rules. The District Registrar registered it on 01.04.2019 and D.E.O. registered correspondent on 29.05.2019. While so, 5 members of the Society, without any authorization from the Society, issued a Notice dated 11.12.2017 calling for a General Body Meeting on 06.01.2018. Notice contained the signature of 6th person, George Maniselvan, who was not even a member of the society. Since the said 5 members acted contrary to the bye-laws of the Society, the Secretary issued show cause notice on them calling for explanation, on 23.12.2017. As no explanation was received, on 04.01.2018, the Society removed those 5 members from the rolls of the Society. (District Registrar registered the same on 01.04.2019). The same remains unchallenged so far. In the meanwhile, on 06.01.2018, the said removed members allegedly conducted a General Body Meeting without any quorum and allegedly admitted four persons viz., C.Jebastin (the Appellant herein), T.Solomon, D.Samraj Jebadhas and G.Arul as new members. It is not registered by the District Registrar so far. On 20.01.2018, those persons allegedly



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conducted an election appointing a set of office bearers (allegedly newly admitted member C. Jebastin as the Secretary) (No Form VII registered by the District Registrar).

22.4. Thereafter, on 26.04.2018, the said C.Jebastin instituted a Suit in O.S.No.86 of 2018 citing himself as the Secretary of the Society in the learned IV Additional District Judge, Tirunelveli seeking for a Decree of Declaration and Injunction. One P.Amose, claiming himself to be an Executive Committee member (Group of C.Jebatin) filed a Writ Petition in W.P.(MD)No.21094 of 2017 for Writ of Mandamus directing the District Registrar, the CEO and the D.E.O. not to process the papers presented by the Society relating to the triennium 2017 – 2020. On 03.04.2019, this Court dismissed the Writ Petition, however ordered the learned IV Additional District Judge, Tirunelveli, to dispose of the suit in O.S.No.86 of 2018 within a period of eight months. In the meanwhile, the appellant herein, C.Jebastin, filed Writ Petition in W.P. (MD)No.8746 of 2019 challenging the proceedings of the District Registrar dated 01.04.2019 registering the Form VII submitted by the Society for the triennium 2017 - 2020. This Court dismissed the Writ Petition as not maintainable on 11.04.2019. The appellant, C.Jebastin, filed another Writ Petition in W.P.(MD)No.13888 of 2019 challenging the proceedings issued by



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the D.E.O. dated 29.05.2019 registering the 5th respondent, S.David Stephen, as

the Correspondent of the School for the Triennium 2017-2020. Interim Stay was granted in W.P.(MD).No.13888 of 2019 on 20.06.2019. In compliance to the Interim Order, the D.E.O. cancelled the earlier approval of Correspondentship dated 10.07.2019. The 5th respondent S.David Stephen filed a Writ Petition in W.P.(MD)No.15889 of 2019 challenging the said proceedings of the D.E.O. dated 10.07.2019. This Court on 14.10.2019 disposed of the aforesaid two Writ Petitions (W.P.(MD)Nos.13889 and 15889 of 2019) vide a common order directing the learned IV Additional District Judge to dispose of the pending O.S.NO.86 of 2018 in 2 months. S. David Stephen filed Appeals against the order of the learned Single Judge dated 14.10.2019. (W.A. (MD). No. 16 of 2020 and W.A.(MD). No. 17 of 2020). On 17.08.2020, the Hon'ble Division Bench granted an Interim Order directing the D.E.O. to restore the position of S.David Stephen as approved Correspondent. On 17.08.2020, the D.E.O. restored S. David Stephen as Correspondent of the School. While so, on 13.10.2020, the triennium 2017 - 2020 expired.

22.5. On 09.10.2020, the Society General Body met and elected new office bearers for the next triennium 2020-2023. On 12.10.2020, the Society submitted Form VII to the District Registrar regarding the new election 2020 –



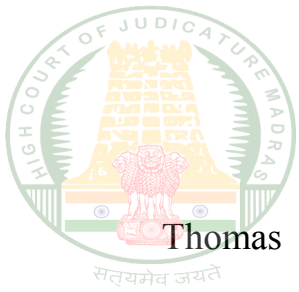
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2023 (District Registrar registered it on 11.08.2022). Appellant herein,

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C.Jebastin, filed I.A.No.20 of 2020 in O.S.No.86 of 2018 seeking for Injunction restraining the District Registrar not to take up the Form VII dated 12.10.2020 relating to the election for the triennium 2020 – 2023. On 08.01.2021, the learned IV Additional District Judge dismissed I.A.No.20 of 2020. No appeal preferred. On 01.07.2021, the Hon'ble Division Bench disposed of W.A. (MD).Nos.16 & 17 of 2020 directing the D.E.O. to process the Correspondentship approval and till then to keep control of the school. Meanwhile, the learned IV Additional District Judge dismissed the Suit in O.S.No.86 of 2017, on 02.06.2002. Against which, C.Jebastin, has filed the present appeal in this Hon'ble Court in A.S.No.218 of 2022 on 17.06.2022. In the meanwhile, the D.E.O. registered S.David Stephen as Correspondent of the school for the triennium 2020 - 2023, on 05.01.2023 on 05.01.2023.

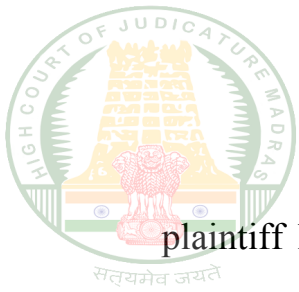
23.The learned Senior Counsel further submitted that, as far as the Triennium 2017-2020 is concerned, the election of the Society was notified as early as on 22.09.2017. Following which, election was conducted on 14.10.2017 by the conduct of the General Body, which met on 14.10.2017, in which new Executive Committee for the Triennium 2017-2020 was elected in which David Stephen, that is, the 5th respondent was elected as President and



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Thomas Walker, that is, the 18th respondent/defendant was elected as Secretary/Treasurer. Out of the existing 22 members, only 5 members failed to cooperate, however, the election was accepted by the Registrar on 01.04.2019. The learned Senior Counsel further submitted that, the splinter group of 5 members announced election on 11.12.2017 and the alleged general body was convened and inducted new members on 06.01.2018, in which, A.Subbatham Samuel, was elected as President and Jebastin was elected as Secretary on 21.02.2018. However, Form VII was not accepted by the Registrar. In the meanwhile, those splinter group of 5 members were expelled by the Society on 04.01.2018 and the same was accepted by the Registrar in Form VII on 01.04.2019. Thus, the cause of action for the suit ought to have arisen as early as on 14.10.2017, that is, the date when the 5th defendant was elected as President and the 18th defendant was elected as Secretary cum Treasurer. However, at that point of time, the plaintiff never ever became a member and it is only on 06.01.2018, he became a member of the Society.

24.The learned Senior Counsel insisted that, since the cause of action for the suit did not arise on 2018 but on 14.10.2017, the suit itself is not maintainable since the plaintiff was admittedly not a member at the point of time when the election was conducted on 14.10.2017. The factum that the



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plaintiff had become a member of the Society only on 2018 could be certain from his admission made in his cross-examination. In view of the same, the learned Senior Counsel pressed for dismissing the appeal.

25.The points for consideration are as follows:-

“1.Whether the plaintiff is entitled to seek declaration of the Form VII submitted by the 18th defendant as registered by the first defendant on 01.04.2019, in connection with the election of the Management Committee of the Society for the years 2017-2020 as illegal, when the cause of action for the suit arose only on 20.01.2018?

2.Whether the plaintiff is entitled to seek declaration of the Form VII submitted by the 18th defendant, as registered by the first defendant, in connection with the removal of 5 members including D.James (Treasurer) as illegal, without challenging the resolution passed by the 5th Respondent Society removing 5 members from the Society, vide resolution dated 04.01.2018?

3.Whether the Trial Court ought to have framed a specific issue as to the fabrication of documents by the 5th and 18th defendants on the basis of the pleadings of the plaintiff?

4.Whether the judgment and decree dated 02.06.2022, passed in O.S.No.86 of 2018 is liable to be interfered with?

5.To what reliefs, the parties are entitled to?”

26.The appellant is the plaintiff. The suit has been filed by one

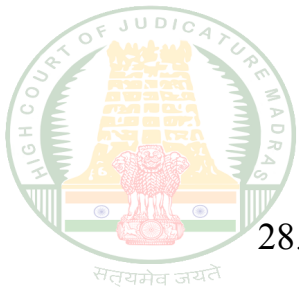


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C.Jebastin, claiming himself as the Secretary of C.M.S. Ivangelical Suvi David

Memorial Higher Secondary School Committee, Karisal. The defendants 1 to 4 are official parties, namely the District Registrar, the District Educational Officer, the Chief Educational Officer and the District Collector, Tirunelveli District. All the reliefs sought for by the plaintiff are as against the defendants 5 to 26.

27.For the sake of brevity, the plaintiff would be hereinafter referred to as, the Society represented by C.Jebastin. C.M.S. Ivangelical Suvi David Memorial Higher Secondary School Committee, Karisal is a Society having a checkered history from the date of its formation on 03.07.1967. As observed by the learned Trial Court, the suit has been preferred as against the defendant 5 to 26, to restrain them from interfering with the day-to-day management and affairs of the Society carried on by the executive committee members. That apart, various reliefs as claimed by C.Jebastin, P.W.1 is to declare the plaintiff schedule mentioned 7 members as the legally constituted Executive Committee of the Society, to declare various Forms, especially Form VII and Form VI as well as Form V submitted to the 1st defendant, District Registrar for recording the same and for taking the same on the file as not valid.



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28.Per contra, the defendants 5 to 26 categorically claimed that, the said C.Jebastin, is not at all entitled to file a suit as against them in the capacity of Secretary representing the said Society. The categorical contention of the defendants 5 to 26 is that, P.W.1, Jebastin, is not at all the Secretary of the Society and he has no authority to file a suit on behalf of the Society. The byelaw of the Society has been marked as Ex.A1 on the side of the plaintiff and as Ex.B50 on the side of the defendants through the 1st defendant, District Registrar.

29.A careful reading of the byelaw of the Society would reveal that only the persons who are the members of the Society would constitute the General Body of the same and only from among the members of the Society, the Executive Committee members are elected for a period of 3 years, out of whom the Executive Committee elects the President, Secretary, Treasurer and the Correspondent of the school run by the Society. There is no quarrel on either side to the fact that only on giving an application to the Executive Committee, a person could become the member of the said Society. As per Byelaw 2(b), a person who wish to become a member of the Society should submit his application to the Executive Committee and on acceptance of the same by the Executive Committee, the said person has to pay the necessary subscription as



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prescribed by the Executive Committee. In case of rejection of the application seeking membership by the Executive Committee, an Appeal could be preferred by the said person before the General Body.

30.Thus, the pertinent question, which has to be decided is as to how and when, Jebastin, that is, P.W.1, became the member of the Society ?

31.A careful perusal of the facts and circumstances of the instant case, would reveal that, though the plaintiff claim that the Society has got more than 500 members, presently the General Body of the Society comprises only 22 members. This could be understood from the admission of the plaintiff in his cross examination as P.W.1 by the 12th defendant conducted on 10.09.2020 and the same is extracted as follows:-

“*பிராதிஸ் வாதி சங்கத்திஸ் 500 பேர்
உறுப்பினர்களாக இருப்பதாக கூறப்பட்டுள்ளது படிவம் 6ல் துலங்குமா
என்றால் 500 பேர் உறுப்பினர்களாக இல்லை.*”

32.The approved member list of the Society as on 31.03.1999 has been marked as Ex.B29 and in terms of the same as on 31.03.1999, the Society had 35 members. The inspection report of the Society dated 26.02.2008 marked as Ex.B58 would reveal that the total number of members as on 26.02.2008 was



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28. The inspection report of the Society dated 06.11.2009 marked as Ex.B59

has recorded the total number of members of the Society as 27. However, during the elections for the Triennium 1999-2002, due to indifferences, which crept in the general body, two factions under the leadership of the fifth defendant and under the leadership of the 18th defendant evolved resulting in conducting election under the leadership of the fifth defendant on 24.11.1999 and under the leadership of the 18th defendant on 22.12.1999 respectively. However, the first defendant approved the Form VII submitted by the 18th defendant, namely, S.Thomas Walker. Assailing the said approval, the fifth defendant filed W.P.No.14402 of 2000 before this Court and this Court disposed of the same with the direction to file an appeal before the appellate authority, that is, the Inspector General of Registration. In the appeal, the Inspector General of Registration directed the District Registrar to conduct a fresh enquiry. The District Registrar on examination held that the elections conducted by the 18th defendant, that is, S.Thomas Walker, on 22.12.1999 as valid. Aggrieved by the order of the Registrar, the fifth defendant filed yet another Writ Petition in W.P.No.20121 of 2000. Another member J.David also filed a Writ petition in W.P.No.1701 of 2001. Both the Writ Petitions were dismissed, against which, the fifth defendant as well as J.David, filed Writ Appeal Nos.2969 of 2001 and 331 of 2002 respectively, following which the



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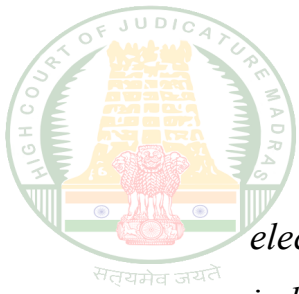
matter was referred to the Full Bench and the Hon'ble Full Bench of this Court

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disposed of the same and the same is reported in **2005 (2) CTC 161** and the

operative portion of the same is extracted as follows:-

“20. As the power of the Registrar to hold enquiry is only to arrive at a prima facie conclusion as to the correctness of the particulars given in Form VII, the provision of sub-section (9) of Section 36 should also be understood to mean that he could issue such directions to the registered society or any of the member of the society only with reference to the details furnished in Form VII. It must also be borne in mind that the enquiry under Section 36 is not only limited to the regular affairs of the society and such affairs not only include the constitution of a registered society but also to the working and financial condition, and hence the power of the Registrar to issue such direction under sub-section (9) of Section 36 of the Act, in regard to the constitution of the registered society must be understood in the context of Form VII. Section 14 obligates the registered society to maintain a register containing the names, addresses and occupations of its members. Section 15 further mandates such registered society shall file with the Registrar a copy of the register maintained by it under Section 14 and from time to time file with the Registrar notice of any change among the members of the committee. In the absence of failure to comply with Section 14, the Registrar could only resort to the power under Section 37 to cancel the registration. Hence, the power under sub-section (9) of Section 36 cannot be stretched to a power on the Registrar to direct the registered society to hold fresh



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election. A direction to hold fresh election would amount to indirectly setting aside the earlier election and such power is not conferred on the Registrar under any of the provisions of the Act. So long as the election is not declared invalid in the manner known to law, no direction for fresh election could be ordered. Validity of the election could very well be decided only by the competent Civil Court as the parties are entitled to let in their evidence to sustain their respective claims. In the event the Registrar satisfies himself as to the particulars furnished in Form VII as correct, he should enter the names in the register maintained for that purpose. In the event if he does not satisfy as to the particulars and thereby does not accept Form VII, he has to issue a direction relegating the parties to approach the Civil Court for appropriate orders and thereafter shall act as per the orders of the Civil Court.”

33. Thereafter, in terms of the aforesaid judgment, both the Writ Appeals were placed before the Division Bench for disposal. The Hon'ble Division Bench without quashing the impugned order issued by the District Registrar dated 13.11.2000 dismissed the Writ Appeals by order dated 14.09.2005 giving liberty to the parties to approach the Civil Court. Against the same, a Review Application was preferred and the Hon'ble Division Bench of this Court held that the order of the District Registrar dated 13.11.2000, approving the Form VII in favour of S. Thomas Walker group, that is, the 18th defendant's group, as non-est in law. In the meanwhile, for the Triennium 2006-2010, the fifth



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defendant, S.David Stephen, again got elected as Secretary, M.John Devapichai

was elected as President and G.Arul as Correspondent of the school. Form VII with respect to the aforesaid election was registered by the District Registrar on 27.06.2006. Challenging the same, the 18th defendant filed W.P.(MD)No.5664 of 2006 and this Court was pleased to set aside the order of the District Registrar dated 27.06.2006 and remitted back the same to the District Registrar for fresh consideration after hearing both the parties.

34. Thereafter, on 11.09.2006, the District Registrar declined to register the Form VII filed by either parties and directed the parties to approach the Civil court. Challenging the said order dated 11.09.2006, passed by the District Registrar, both the fifth defendant and the 18th defendant filed W.P.(MD)Nos. 10187 of 2006 and 8717 of 2006 respectively. Both the Writ Petitions were dismissed by this Court on 24.09.2007 directing the parties to approach the civil court. Assailing the same, both the parties filed W.A.(MD)Nos.636 of 2007 and 496 and 497 of 2007 respectively. The Hon'ble Division Bench of this Court dismissed all the Writ Appeals by a common order directing the parties to approach the civil court and further directing the District Educational Officer, Cheranmahadevi to disburse the salary to the teaching and non-teaching staff of the School and to oversee the management and administration of the School.



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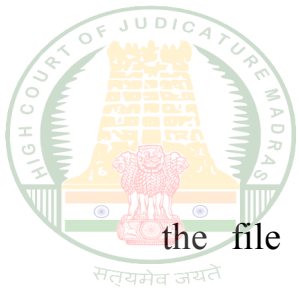
35. In the meanwhile, on 05.06.2008 the District Registrar registered the Form VII in favor of the fifth defendant as per the subsequent election and also registered the correspondentship of G.Arul on the side of the fifth defendant on 12.08.2008 approving the election of the Triennium 2006-2010. Challenging the same, the 18th defendant Thomas Walker filed W.P.(MD)No.6430 of 2008 and also filed at another W.P.(MD)No.8596 of 2008 challenging the order of the District Educational Officer, Cheranmahadevi approving G.Arul as Correspondent. Both the Writ Petitions were dismissed by this Court on 24.07.2008, against which W.A.(MD)No.515 of 2008 was preferred by the 18th defendant. The Hon'ble Division Bench allowed the Writ Appeal remitting back the matter to the learned Single Judge to dispose of the matter on merits. Against the same on 16.01.2009, the fifth defendant filed a Special Leave Appeal Civil Nos.238 to 240 of 2009 before the Hon'ble Supreme Court and a stay was granted by the Hon'ble Supreme Court. By the strength of the said stay granted by the Hon'ble Apex Court, the fifth defendant continued as Secretary of the Society and G.Arul continued as Correspondent of the School.

36. In the meanwhile, Triennium 2007-2010 came to an end as a result of which, fresh notice was issued by the Society to elect the next Executive



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Committee for the Triennium 2010-2013. Thereafter, on 27.05.2010, the fifth defendant was again elected as Secretary and G.Arul was elected as Correspondent. However, the same was not challenged by the 18th defendant. In the meanwhile, the District Registrar by proceedings dated 12.07.2010 returned Form VII citing the pendency of cases before the Hon'ble Apex Court. While so, on 10.03.2012, the Hon'ble Apex Court passed a consent order permitting David Stephen, that is, the fifth defendant, to resubmit the return Form VII within a period of two weeks and further directed the District Registrar to hold an inquiry and further directed that on completion of inquiry, if the District Registrar accepts one such forms, the aggrieved party shall be at liberty to approach the civil court. By way of complying to the order passed by the Hon'ble Apex Court the fifth defendant resubmitted Form VII to the District Registrar and the District Registrar rejected the same vide a order dated 14.05.2012, marking a copy to the Inspector General of Registration. The Inspector General of Registration vide a proceedings dated 17.05.2012, directed the District Registrar to pass orders afresh by holding fresh inquiry. The District Registrar, thereafter, conducted a detailed inquiry and registered the Form VII filed by the fifth defendant vide a proceedings dated 13.07.2012. Challenging the same, the 18th defendant filed W.P.(MD)No.12531 and 14532 of 2012 respectively and in addition to that also filed O.S.No.109 of 2012 on



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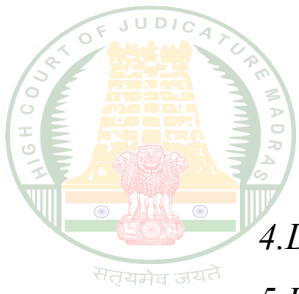
the file of the District Municipal Court, Cheranmahadevi to declare the elections held by him as a valid one. However, during the pendency of all those cases, the fifth defendant continued to administer the Society even after the completion of the Triennium 2010 - 2013 on the basis of the election which was conducted for the period 2013 - 2016. In the meanwhile, on 20.09.2017, a compromise was arrived between the warring groups and they together resolved to convene an extraordinary General Body meeting jointly for the purpose of electing new office bearers and executive committee members.

37. An extraordinary General Body meeting was conducted by both the warring factions, recording the fact that after 24.11.1999 and 22.12.1999, since the committee of the School functioned as two factions under the defendants 5th and 18th respectively, the same had affected the development and administration of the Society and that of the School and hence, it has been decided by both the factions to enter into a compromise and together conduct a General Body meeting for the purpose of electing new Executive Committee for the Triennium 2017-2020. The details of the members who participated in the said general body meeting under the 5th defendant are as follows:-

1.S. David Stephen

2.T.Palraj

3.M.S.Densing Raja



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4.D.Pal Raj

5.D.Joseph

6.D.P.Gabriel

7.D.Moses Selvaraj

8.D.Emmanuel

9.J.Milton Jebamanikam

10.J.Kovil Pichai

11.T.Jeya Veeran

38.The members who participated in the 4th general body meeting under the 18th defendant are as follows:-

1.S.Thomas Walker

2.S. Jeya Kumar

3.D.James

4.P.Aamos

5.J.Deva Pichai Gnanaiya

6.E.Jeyasekar Elisa

7.T.Jagath Devamani

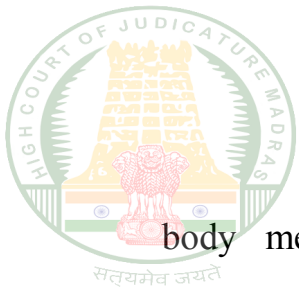
8.D.Simon

9.G.Yoshev Peter

10.S.Esupadham Samuel

11.A.John

39.Thus, it is clear that from both the factions, 11 members participated respectively, that is, a total number of 22 members participated in the general



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body meeting conducted on 14.10.2017, in which the new Executive Committee for the Triennium 2017-2020 was elected. The resolution passed by compromising both the groups has been marked as Ex.B15. Thereafter, the Form VII regarding the election was submitted to the 1st defendant District Registrar under Rule 17 of the Society's Registration Rule and the same was registered on 01.04.2019. Following which, the District Educational Officer registered the Correspondent on 29.05.2019.

40.A careful perusal of the resolution passed by the Society compromising both the warring factions marked as Ex.B15 would reveal that, out of the total 22 members, only 17 of them have signed the said compromise. The five members who did not sign in the aforesaid compromise are S.Jeya Kumar, D.James, P.Aamos, J.Deva Pichai Gnanaiya and S.Esupadham Samuel. A careful perusal of the said resolution would reveal that the plaintiff, Jebastin's name is not found either in the faction of the 5th defendant or in the faction of the 18th defendant. Thus, it is clear that, as on 14.10.2017, the said C.Jebastin was not at all a member in the said Society. However, C.Jebastin claims that he had been the member of the Society as early as from 28.09.2006 by the strength of Ex.A13, which has been marked on the side of the plaintiffs.



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41.A careful perusal of Ex.A13 would reveal that, the same is the resolution of a General Body meeting, which was conducted on 28.09.2016 under the Secretaryship of S.Thomas Walker i.e., the 18th defendant, in which two persons, namely, C.Jebastin and T.Ranies Samuel, were inducted as members of the Society. The total number of members was recorded as 14 and the members present in the aforesaid general body meeting was recorded as 10. Thereafter, a Form VII as submitted by the 18th defendant signed in the capacity of Secretary of the Society, with respect to the inclusion of C.Jebastin as the member of the Society on 28.09.2016 was also submitted before the first defendant. The said document marked as Ex.A13 has been obtained by the plaintiff under the Right to Information Act. However, on the basis of the documents placed before me, it could be clearly understood that, the aforesaid resolution has been resolved by the faction which was functioning under the 18th defendant on 28.09.2016 inducting C.Jebastin and T.Ranies Samuel as members. But due to the pendency of O.S.No.109 of 2012 on the file of the District Munsif Court, Cheranmahadevi and W.P.(MD)Nos.12531 and 14532 of 2012 filed by the 14th defendant before this Court, the first defendant, that is, the District Registrar, kept the registration Form VII submitted by both the factions pending, citing the pendency of the Writ Petitions and civil suit instituted by the 18th defendant, though the 5th defendant, namely, S.David

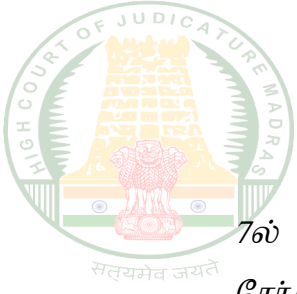


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Stephen, continued the administration of the Society even after the completion of the Triennium 2010-2013.

42.It is pertinent to understand that even after the compromise, which was arrived between the two warring groups on 20.09.2007 when a General Body meeting was conducted on 14.10.2017 by the members of both the factions, that is a total number of 22 members, the plaintiff, that is, C.Jebastin, neither participated the General Body meeting under the faction of the 5th defendant nor that of the 18th defendant. This fact would throw light on the question in issue that certainly Mr.C.Jebastin was not a member as on the date of compromise and on the date of election, which was conducted on 14.10.2017. Obviously, it could be understood that the induction of C.Jebastin under the faction of the 18th defendant on 28.09.2016 was not registered by the first defendant, that is, the District Registrar. The argument of the defendants that, the said C.Jebastin had never been the member of the Society before 06.01.2018 is further strengthened by the admission of the said C.Jebastin who examined himself as P.W.1 at the time of his cross-examination on 21.09.2020, on the side of the defendants 5 to 8 and 15 to 22 and the relevant portion of the same is extracted as follows:-

“நான் தாக்கல் செய்துள்ள அனைத்து ஆவணங்களை
பற்றியும் எனக்கு தெரியும். வா.சா.ஆ.53ல் 6 வது பக்கத்தில் படிவம்



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7ல் நான் சங்கத்தில் 06.01.2018 அன்றுதான் உறுப்பினராக சேர்த்துள்ளதாக குறிப்பிடப்பட்டுள்ளது என்றால் சரி. வா.சா.ஆ.53ல் 9 வது பக்கத்தில் நான் மனுக்கள் வழங்கியதாக குறிப்பிடப்பட்டுள்ளது அதுபோல நான் கொடுத்த எந்த மனுக்களையும் இந்த வழக்கில் தாக்கல் செய்யவில்லை என்றால் சரி. நான் சந்தா செலுத்தி சேர்த்துக்கொள்ளப்பட்டுள்ளதாக அதில் கூறப்பட்டுள்ள விபரம் குறித்து நான் ஆதாரங்கள் எதுவும் நீதிமன்றத்தில் தாக்கல் செய்யவில்லை என்றால் சரி. வா.சா.ஆ.53ல் 9வது பக்கத்தில் சாலமன், அருள், சாம்ராஜ், ஜெயராஜ் ஆகியோர் கொடுத்த மனுக்களையுடன் வா.சா.ஆ.39 முதல் 41 வரை நான் நீதிமன்றத்தில் தாக்கல் செய்திருக்கிறேன் என்றால் சரி. 22.05.2018ல் 2017-2018ம் ஆண்டறிக்கை வா.சா.ஆ.63ல் 5வது பக்கத்தில் ஏசுபாலன் சாமுவேல், தேவபிச்சை ஞானையா ஆகியோர் எந்த தேதியில் எந்த மாதம் உறுப்பினராக சேர்ந்தார்கள் என்று குறிப்பிடப்படவில்லை என்றால் சரி. ஏசுபாலன்சாமுவேல் என்பவருக்கு 2004 என்பதும், தேவபிச்சைஞானையா என்பவருக்கு 2007 என்பதும் பேனாவால் எழுதப்பட்டுள்ளது என்று சொன்னால் சரி. 5வது நபர் ஜார்ஜ் மணிசெல்வன், 7வது நபர் ஜான் ஆகியோர் எந்த தேதி, மாதம், வருடம் உறுப்பினராக சேர்ந்தார்கள் என்ற விபரம் சொல்லப்படவில்லை என்றால் சரி. வா.சா.ஆ.63ல் 8வது நபராக என் பெயர் குறிப்பிடப்பட்டு 06.01.2018ல் உறுப்பினராக சேர்ந்ததாக குறிப்பிடப்பட்டுள்ளது என்று சொன்னால் சரி.“

43.From the aforesaid admission made by the P.W.1 C.Jebastin himself, it could be understood that the plaintiff, that is, C.Jebastin, had become the member of the Society only on 06.01.2018, as found in Ex.A53. Thus, before



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2018, even as per the plaintiff, he was not a member of the Society and he was inducted only on 06.01.2018. That apart, the persons referred in Schedule 1 to 7 were also said to have been elected only subsequent to the induction of P.W.1 in the Society as on 06.01.2018.

44.A careful perusal of Ex.A53 would reveal that, on 22.01.2018, an Executive Committee has been convened under the Presidentship of S.Esupadham Samuel in which, the 18th defendant, namely, S.Thomas Walker, and two others, namely, D.Simon Mani and E.Jeyasekar Elisa, were deleted from the membership of the Society as on 21.01.2018 and on the same day, the said S.Esupadham Samuel has been elected as the President, C.Jebastin as Secretary, D.James as Treasurer, J.Devapichai as the Correspondent of the School and P.Aamos, S.Jeyakumar and G.Arul as the Executive Committee members respectively. That apart, the Form VII enclosed in the said exhibit would reveal that C.Jebastin, G.Arul, T.Solaman and D.Samraj Jebadas, were inducted as the members of the Society as on 06.01.2018 by the said S.Esupadham Samuel. But the documents which has been placed before me would reveal that, on the basis of the compromise entered into between both the warring factions, a General Body meeting was conducted on 14.10.2017, in which 17 members out of 22 members participated and elected a new Executive



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Committee for the Triennium 2017-2020, in which both the factions under the 5th defendant and the 18th defendant were amalgamated, under Resolution No.1.

Under Resolution No.2, S.David Stephen, S.Thomas Walker, T.Palraj, D.James, M.S.Densing Raja, D.Simon, J.Milton Jabamanikam, E.Jeyasekar Elisa, D.Emmanuel and G.Joseph Peter, were elected as Executive Committee members for the Triennium 2017-2020. The Form VII dated 22.09.2017 as approved by the first defendant District Registrar approving the Executive Committee of the Society on 01.04.2019 which has been marked as Ex.B19 would reveal that the 5th defendant had been elected as the President of the Society and Correspondent of the School, while the 18th defendant has been elected as the Secretary of the Society. Ex.A81 is the resolution passed by the Society under the Presidentship of 5th defendant and as signed by the 18th defendant as Secretary removing 5 members, namely, D.James, S.Esupadham Samuel, S.Jeya Kumar, P.Amos and J.Devapichai Gnanaiah, from the membership of the Society permanently. The said removal in Form VII as submitted by the Secretary, that is, the 18th defendant to the District Registrar was also approved on 01.04.2019 and the same has been marked as Ex.A81. Thus, it is clear that Ex.A53 is nothing but the General Body conducted by the removed members who were removed vide Ex.A81 under the Presidentship of one of the removed member namely S.Esupadham Samuel, by whom the



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plaintiff C.Jebasin has been inducted as the member of the alleged Society by the descending faction after the amalgamation of the warring groups under the leadership of the 5th and 18th defendants respectively.

45.Thus, as rightly observed by the learned Trial Court, I have no hesitation to hold that the plaintiff has miserably failed to prove how the Executive Committee as claimed by him under the suit schedule came into existence and on what basis, the General Body members were as scheduled by the plaintiff has been appointed at that point of time. I further observe that, the plaintiff has miserably failed to prove even as to the way in which he was inducted as a member of the Society on 06.01.2018. From the year 2000 till 2017, both the factions under the 5th defendant and the 18th defendant respectively, were at warring ends continuously and subsequently, considering the welfare of the Society and the administration of the School involved and the future of the students studying in the institution both the warring groups burying the hatchet had come together under a compromise and were amalgamated for the welfare of the Society. That apart one Aamos who is scheduled in the suit schedule passed away during the pendency of the suit and the same has been recorded by memo filed before the learned Trial Court on 01.09.2021. As per the byelaws marked as Ex.A1 (Ex.B50), necessary members

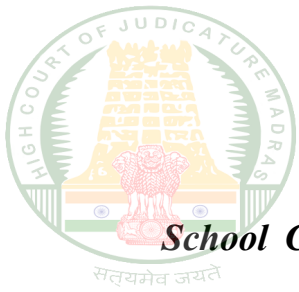


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needed in a Society for the purpose of Executive Committee is 7 and hence, the death of Aamos has created a cloud in the claim of the plaintiff to declare the petition and the plaintiff scheduled persons as the legally constituted Executive Committee of the Society, in the absence of 7 members. Since the plaintiff has not taken any further steps for bringing in another member to the Executive Committee as per the byelaws, his claim to declare the plaintiff scheduled persons as a legally constituted committee obviously fails. In view of the same, the findings of the learned Trial Court to issue Nos.1 to 8 and 11 are upheld by this Court.

46. That apart, though the plaintiff has pleaded that, the defendants 5 and 18 have forged and fabricated several documents for the purpose of recording the compromise before the first defendant, while deposing his evidence as P.W.1, he failed to bring in substantial evidence before this Court to prove the same. Hence, I do not find any demerit in the learned Trial Court for not having framing an issue as to the claim of the plaintiff that the defendants 5 and 18 indulged in fabricating several documents.

47. In view of the judgment passed by the Hon'ble Full Bench of this Court in the case of ***C.M.S. Ivangelical Suvi David Memorial High Secondary***



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School Committee, Karisal through his Secretary Sri.S.David Stephen and others versus the District Registrar, Cheranmahadevi, Tirunelveli District

and others reported in ***2005 (2) CTC 161***, the learned Trial Court is correct in making an observation that the District Registrar has no authority to question the election or order re-election of the Society and that the first defendant's stand that they would act upon the decision of the civil court and that the first defendant has no role to play in deciding the rightful authority as to who should run the Society. Hence, I uphold the finding of the learned Trial Court for issue No.9 as well.

48.As far as the findings of the learned Trial Court with respect to issue Nos.10, 12 and 13, I do not find it necessary to interfere with the same and I fully concur with the finding of the learned Trial Court for issue No.14 that, the plaintiff C.Jebastin as well as the defendants 5 to 26 have been creating issues one after the other thereby, hampering the proper functioning of the Society. After a prolonged legal battle between the various warring factions finally, when a quietus has been arrived at in the affairs of the administration of the Society and that of the School by the compromise arrived at between the two factions by amalgamating the two factions, the plaintiff is not entitled to any relief as prayed for, if allowed would hamper the day-to-day functioning and



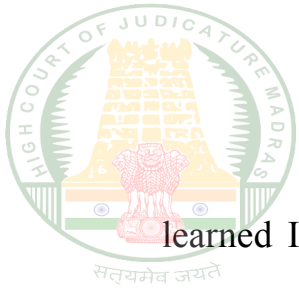
A.S.(MD)No.218 of 2022

proper administration of C.M.S. Ivangelical Suvi David Memorial Higher
Secondary School Committee, Karisal.

49.It is also necessary to bring on record to the fact that, the instant suit as well as Appeal is with respect to the election of the Society for the Triennium 2017 - 2020.

50.However, on 13.10.2020, the Triennium 2017 - 2020 had expired and thereafter, the general body meeting of the Society has been conducted wherein new office bearers were also elected for the next Triennium 2020 - 2023 and Form VII submitted to the District Registrar in that regard regarding the new election has also been registered on 11.08.2022. The learned Trial Court has also dismissed I.A.No.20 of 2022 filed in O.S.No.86 of 2018 seeking to restrain the first defendant from not registering the Form VII dated 12.10.2020 relating to the election of Triennium 2020 – 2023, on 08.01.2021, against which the plaintiff has not preferred any appeal. In view of the same, nothing survives in this Appeal.

51.In the result, the Appeal Suit is dismissed and the impugned judgment and decree passed in O.S.No.86 of 2018, dated 02.06.2022, on the file of the



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learned IV Additional District Judge, at Tirunelveli is upheld. Consequently,

connected miscellaneous petitions are closed. Both the parties are directed to

bear their own costs.

30.05.2024

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

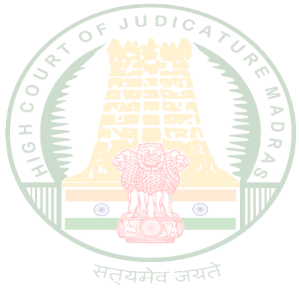


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To

- 1.The IV Additional District Judge,
Tirunelveli.
- 2.The District Registrar,
Cheramahadevi Registration District,
Cheramahadevi,
Tirunelveli.
- 3.The District Educational Officer,
Cheranmahadevi,
Tirunelveli -1.
- 4.The Chief Educational Officer,
Kokkirakulam,
Tiruneveli District -9.
- 5.The Tirunelveli District Collector,
District Collector Office Campus,
Kokkirakulam,
Tirunelveli-9.
- 6.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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A.S.(MD)No.218 of 2022

L.VICTORIA GOWRI, J.

Mrn

Order made in
A.S.(MD)No.218 of 2022

30.05.2024