
(2009) 09 MAD CK 0199

In the Madras High Court

Case No : C.R.P. (PD) No. 1222 of 2009 and M.P. No. 1 of 2009

D. Soundaraja Nadar

APPELLANT

Vs

Thakshinamara Nadar Sangam and Others

RESPONDENT

Date of Decision : 10-09-2009

Acts Referred:

Constitution of India, 1950 — Article 227

Tamil Nadu Societies Registration Act, 1975 — Section 15

Citation : (2010) 2 MLJ 361

Hon'ble Judges : Aruna Jagadeesan, J

Bench : Single Bench

Advocate : T.V. Ramanujam, SC for S. Meenakshi Sundram, for the Appellant;
Venkata Krishnan, for the Respondent

Final Decision : Dismissed

Judgement

Aruna Jagadeesan, J.—This Civil Revision Petition is filed against the petition and order dated 25.8.2009 made in IA. No. 303/2009 in OS. No. 105/2008 by the learned Subordinate Judge, Tirunelveli.

2. The undisputed facts are that the Thakshinamara Nadar Sangam, Tirunelveli (herein after referred to as the Sangam) is a registered Society under the Tamil Nadu Societies Registration Act, consisting of 50,000 members and the administration of the Sangam is as per the scheme decree framed in OS. No. 13/1942. A suit in OS. No. 105/2008 had been filed by the Sangam through its Secretary before the learned Subordinate Judge, Tirunelveli, seeking for declaration of the resolution said to have been passed in the General Body Meeting dated 30.5.2008 and the consequential claim of the defendants 1 to 10 therein appointing themselves as temporary Administrative Committee and Election Officers as null and void and also for permanent injunction restraining the defendants from interfering with the affairs of the Sangam including the conduct of the election.

3. Earlier when about 320 members represented by one P. Piramakumar claimed

to have convened a General Body Meeting on 29.5.2008, one A. Sargunapandian and P. Suyambulingam, representing a group of members of the Sangam, challenged the order of the learned Sub Judge, Madurai made in IA. No. 80/2008 in an unnumbered suit adjourning the application to 3.6.2008 in CRP. No. 920/2008 before this Court and this Court went into the matter and by order dated 28.5.2008 granted an order of interim injunction restraining the group of persons represented by P. Piramakumar from conducting the General Body Meeting on 29.5.2008. In the said order this Court has observed thus:

Needles to say that in a given case where a particular meeting is to be convened, it must be a properly convened meeting and notice in that regard must be given properly because the law expects that every member should be put on notice of the subject matter which has got to be discussed and a decision be taken.

In paragraph 18, this Court has further observed thus:

18. So long as the requisition for the meeting is not properly done as contemplated and further the notice also cannot be declared to be valid, the meeting scheduled to take place on 29.5.2008 cannot be allowed to be proceeded with. Hence, the meeting has to be injuncted.

4. When it was brought to the knowledge of this Court that another requisition has been given by 400 members to have a meeting on 30.5.2008 which is impugned in this revision, this Court has observed thus:

It is brought to the notice of the Court by the petitioners' side that another requisition has been given by 400 members to have a meeting on 30.5.2008. In order to convene a meeting on a particular subject and that too, in respect of a Sangam consisting of 50000 members and having Rs. 300 crores worth of properties, proper things should take place in the proper form. In the instant case, the interest of the Sangam is paramount than the interest of the individual members. If the meeting is not convened on that date, no prejudice would be caused to those members. But, if it is convened there is all possibility of disturbance in the smooth running of the Sangam.

5. However, a paper publication was given for the conduct of the special General Body Meeting on 30.5.2008 by the petitioner representing a group of 400 members and challenging it, the Sangam had filed the suit in OS. No. 105/2008 for the relief stated supra. In the mean while another suit has been filed in OS. No. 27/2008 before the learned Principal District Judge, Tuticorin and it is averred that a General Body Meeting was held on 30.5.2008 and a resolution had been passed appointing a temporary Administrative Committee and a election officer to conduct the election.

6. Aggrieved over the same, the Sangam filed CRP. No. 1104/2008 against the order made in IA. No. 179/2008 in OS. No. 105/2008, CRP. No. 1144/2008 against the order made in IA. No. 142/2008 in OS. No. 27/2008 on the file of the Principal District Judge, Tuticorin, wherein an Advocate Commissioner was

appointed to supervise the election announced by the rival group and CRP. No. 1145/2008 praying to struck off the plaint from the file in OS. No. 27/2008 on the file of the Principal District Judge, Tuticorin. All the said three Civil Revision Petitions were taken up together by this Court and an order was passed after hearing the arguments advanced on both sides. The relevant portion in paragraph 9 of the said order is given below:

9. Accordingly, these revision petitions are disposed of, directing the learned Subordinate Judge to dispose of the main suit in OS. No. 105/2008 itself within a period of six months from the date of receipt of this order. In the mean time, i.e. till the disposal of the suit, the respondents are hereby directed not to implement the so called resolution, dated 30.5.2008, however, they are permitted to go on with the election process. It is made clear that the result of the election process is subject to the outcome of the suit.

A specific direction has been passed against the petitioner group not to implement the so-called resolution dated 30.5.2008, however they were permitted to go on with the election process, but however the result of the election process was subject to the outcome of the suit.

7. Admittedly, as per the bye-laws of the Sangam and under the provisions of the Tamil Nadu Societies Act, 1975, it is imperative to conduct election once in three years. There is no dispute that the present office bearers' term would be completed on 4.10.2009. According to the Sangam, in its usual course of business it has got to conduct election and for the said purpose appointed a retired Judicial Officer and he has already taken charge and the election process is already going on.

8. Mr.Venkata Krishnan, the learned Counsel for the 1st respondent Sangam would submit that it is obligatory on the office bearers to convene a meeting for the election to be held before 4.10.2009 on which date the tenure of the present office bearers would expire. He would submit that once the election process had commenced it cannot be injuncted or interfered with and placed reliance on the decisions of the Honourable Supreme Court rendered in the cases of Laksmi Charan Sen v. A.K.H. Hassan AIR 1985 SC 1233, Boddula Krishnaiah and another Vs. State Election Commissioner, A.P. and others, , N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Others, and Umesh Shivappa Ambi and Others Vs. Angadi Shekara Basappa and Others, and Kalla Ramakrishna v. State Election Commission 2005 26 All India Cases 764, wherein it has been held that the election process once started shall not be stayed.

9. It is well settled in the aforesaid decisions of the Honourable Supreme Court that once the election process started the court should not interfere with the said process. It is pertinent to point that both the parties claim that they have commenced election process. It is the contention of the 1st respondent Sangam that no meeting was held on 30.5.2008 and as a matter of fact, the meeting itself was called off by the 12th respondent, who had booked the Nadar Uravin

Murai Sangam, Sankar Nagar for the conduct of the alleged meeting on 30.5.2008 had cancelled the booking of the said Mandabam and has published the same. The learned Counsel for the 12th respondent has conceded the same before this Court. On the other hand, it is contended by the learned Counsel for the petitioner that meeting was convened in an open place in front of the Kalyana Mandabam on 30.5.2008 and the resolution was passed appointing the temporary Administrative Committee and the election officer to conduct the election.

10. At this juncture, it is important to note that one S.P. Murugesan, who belongs to the petitioner Group had applied to the authorities under Right to Information Act requesting information as to whether any meeting was conducted on 30.5.2008 and the Tahsildar has replied stating that in the vacant place in front of the Mandabam the meeting was conducted and many members participated. The same information was reiterated by the Revenue Divisional Officer in his letter in Na. Ka. No. A5/1070/2009 dated 3.3.2009. However, it is brought to the notice of this Court that when a complaint was made to the District Collector, Tirunelveli that improper information had been given by the authorities aforesaid, after holding enquiry by another Revenue Divisional Officer, it has been reported that no such meeting had been conducted on 30.5.2008 and accordingly, set aside the endorsement passed by the Revenue Divisional Officer, Tirunelveli in his order dated 3.3.2009.

11. Furthermore, it is contended by the learned Counsel for the 1st respondent Sangam that the members of the rival group namely A. Asokan (the 2nd respondent), D. Soundaraja Nadar (the petitioner), K. Kasi Viswanatha Nadar (4th respondent) and K. Paulraj Nadar (5th respondent) have received nomination forms from the election officer, which amounts to participation in the election and the party so acquiescing in election cannot be allowed to challenge the election and relied upon the decision of this Court rendered in the cases of S. Murugesan v. The Collector of North Arcot (Inspector of Panchayat) Vellore cum Election Authority, North Arcot and Ors. 1966 MLJ 290 and S. Krishnaswamy and Others Vs. South India Film Chamber of Commerce and Others, in support of his contention.

12. The learned Counsel for the petitioner would submit that only in order to demonstrate that contrary to bye-laws the Sangam is collecting a sum of Rs. 10 for nomination form and Rs. 5000/- as deposit for a candidate, those members had received the nomination forms and they have no intention to participate in the election.

13. There is no dispute that the tenure of the present office bearers expires on 4.10.2009. The Sangam has commenced the election process and has started receiving nomination forms. Clause 4 of Section 15 of the Tamil Nadu Societies Registration Act, 1975 clearly stipulates that the term of the office of the members of the committee shall not exceed three years from the date of appointment. In the said view of the matter, when the election process has

commenced, the same cannot be interfered with and passing any order in this Civil Revision Petition would only amount to stopping of the election process, that has been properly initiated as per the bye-laws and in accordance with the provisions of the said Act.

14. In view of the above said facts, I do not think that it is necessary to deal with the contentions made by either of the parties in this revision and I do not express any opinion on the merits of the case of either parties. In CRP. No. 920/2008, this Court has already directed the learned Subordinate Judge to dispose of the main suit within a period of six months from the date of receipt of the order. I am given to understand that the trial in OS. No. 105/2008 is almost nearing completion. Admittedly, the petition in IA. No. 303/2009 had become infructuous.

15. As already observed, the rights of the parties cannot be gone into in the interim applications and as observed by this Court in CRP. No. 1104/2008 batch the result of the election process of both the parties shall be subject to the outcome of the suit in OS. No. 105/2008. In my considered opinion, in the factual matrix of this case, this Court cannot exercise its extraordinary power under Article 227 of the Constitution of India and therefore, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MP is closed. However, considering the peculiar facts and circumstances of the case and owing to the urgency, the court below is directed to dispose of the main suit itself within a period of one month from the date of receipt of a copy of this order and both the parties shall cooperate with the court below in disposal of the suit within the stipulated time.