
(2012) 02 MAD CK 0215
In the Madras High Court
Case No : Writ Petition No. 16810 of 2011

K. Srinivasan Pothi

APPELLANT

Vs

The Collector of the Nilgiris Udhagamandalam Nilgiris District,
The Registrar District Registrar of Societies Udhagamandalam
Nilgiris District and The President Coonoor Club,
Coonoor-643101 Nilgiris District

RESPONDENT

Date of Decision : 09-02-2012

Acts Referred:

Citation : (2012) 02 MAD CK 0215

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : V. Anandha Moorthy, for the Appellant; P. Karthikeyan, Govt. Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice Vinod K. Sharma

1. Petitioner prays for issuance of writ in the nature of mandamus directing the 2nd respondent, i.e. Registrar of the Societies to take action against the 3rd respondent the president of Coonoor club. The 3rd respondent has not been impleaded as party in individual name but by designation only. It is not known how the enquiry against a President of a club who is a legal person can be conducted as prayed for in this writ petition, in absence of person holding the post is made party to rebut the allegations.

2. The facts pleaded in support of the petition read that 3rd respondent club has the membership of 731 including temporary members. If the 3rd respondent is to pass a special resolution as per the Bye-laws, there should be majority of 3/4th of the members in favour of the resolution.

3. The contention of the Learned Counsel for the petitioner is that the object of meeting and passing of resolution under challenge before the 2nd respondent

was to increase the annual subscription and to collect the minimum billing and thereby to cause burden to the members of the club.

4. The petitioner filed a representation with the 2nd respondent, regarding the lapse and illegality of the 3rd respondent club on different dates, but no progress is made on the complaint.

5. It is also submitted that 1st respondent had informed the petitioner, that directions have been issued to the 2nd respondent to take necessary action on the irregularity committed. It is submitted that inspite of instructions by 2nd respondent no action has been taken as the complaint.

6. A reading of the affidavit shows, that this writ petition is nothing but misuse of process of the court, to force the respondents 1 and 2 to take action against the club. It is merely a private club member ship of which is governed by the Bye-laws it has no statutory form of law.

7. The petitioner does not have any jurisdiction to enforce the Bye-laws of the society having no statutory force of law by invoking the writ jurisdiction. The Bye-laws are only a contract between the member and in case of any grievance, remedy is to approach Civil court, that too by impleading proper parties. It is for the petitioner to challenge the resolution in accordance with law in the Civil court if so advised. The office of respondents 1 and 2 cannot be used to achieve some hidden agenda, that too, by not impleading necessary parties. The respondents 1 and 2 cannot interfere with resolution passed by club, as the aggrieved member can only go to Civil court. In absence of violation of statutory rule or Law, the writ jurisdiction cannot be invoked. No merits. Dismissed. No costs.