

(2011) 11 MAD CK 0012

In the Madras High Court

Case No : Writ Petition (MD) No. 872 of 2011

Madurai Aruppukkottai Nadar Uravinmurai Mahalir Melnilai
Palli Paribhalana Sabai-3

APPELLANT

Vs

District Registrar (Administration) Madurai (South), Mahal,
Madurai-1 and Others

RESPONDENT

Date of Decision : 14-11-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Tamil Nadu Societies Registration Act, 1975 — Section 28, 30

Citation : (2011) 11 MAD CK 0012

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : H. Arumugam, for the Appellant; K. Sekar for Respondents 4-10 and Mr. T.S. Mohammed Mohideen Additional Government Pleader for Respondents 1-2, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice K. Chandru

1. Despite a Full Bench decision of this Court in C.M.S. Evangelical Suvi David Memorial Higher Secondary School Committee Karisal Vs. The

District Registrar and Others, , writ petitions are continued to be filed before this Court as if the dictum laid down by the Full Bench has any binding effect.

2. It may be the privilege of the litigants and represented through their counsels to file innumerable cases, but no such privileges are not conferred

on this Court exercising jurisdiction under Article 226 of the Constitution to derail dictum laid by larger benches. The principle of stare decision to

follow the ratio decide of a Full Bench of this Court cannot be overcome at the

instance of the petitioner.

3. The Full Bench in paragraph 20 of the judgment referred to above, clearly says that the Registrar should satisfy himself about the particulars

furnished in Form No. VII, is not larger than that of a ministerial act. The Registrar is not competent to see if an election is validly conducted, if the

office bearers were properly elected or if there were any illegalities in the manner in which the office bearers were elected. The verification of the

particulars contained in Form No. VII to be done by the Registrar cannot be enlarged so as to enable him to test the validity of election itself.

4. In the present case, the petitioner's society with a registration No.75/67 represented through its Secretary P. Sivasamy had questioned one such

order passed by the District Registrar (Administration), dated 12.01.2011.

5. By the impugned order, the District Registrar on the basis of application filed by two societies with Registration Nos.185/66 and 75/67 to merge

two societies in the light of Section 28 and filed an application u/s 30. Therefore, subject to any orders passed by this Court in the light of Section

30 merger request was accepted by the Registrar. The petitioner instead of challenging the said order in appropriate Civil Court, has filed the

present writ petition.

6. The contention raised was that no notice was given for convening the general body meeting held on 27.11.2010 and the alleged meeting held on

27.11.2010 was illegal. The contesting respondents have failed to ad hear to follow the procedures contemplated u/s 28 of the Act.

7. When the writ petition came up for admission on 27.01.2011, this Court ordered notice of motion. On notice from this Court, on behalf of the

contesting respondents have filed a counter affidavit dated 06.11.2011. In the counter affidavit, it was contended that the order of the authority do

not suffer from any infirmity. The impugned order says it is subject to the outcome of the litigation pending in O.S.No.982 of 2010 on the file of the

II Additional Sub Court, Madurai as well as in O.S.No.912/2000 pending on the file of the I Additional District Munsif Court, Madurai.

8. In any event, the judgment of the Full Bench of this Court has been subsequently came to be followed by various Judges of this Court except for

minor variations. All the learned Judges have followed the decision of the Full Bench in holding that the authority constituted under the Tamil Nadu

Societies Registration Act, has no power to go into the veracity of the claim of the parties and the matter will have to be decided only by the competent Civil Court.

9. The learned counsel for the respondents produced a copy of the judgment of this Court reported in 2007 (5) CTC 421 Theni Melapettai

Nadarkal Uravinmurai Vs. The District Registrar (Societies) and others), V. Ramasubramanian, J delivering his judgment has analyzed once again

the similar contentions raised and rejected the case of the petitioners who sought to reinterpret the decision of the Full Bench to suit their

convenience.

10. This Court is not inclined to entertain this writ petition on the short ground that the ratio decide of the Full Bench of this Court will squarely

apply. The objections raised by the contesting respondents cannot be brushed aside by entertaining the writ petition.

11. In view of the same, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.