
(2013) 06 MAD CK 0184

In the Madras High Court

Case No : Review Application No. 84 of 2013

M.S. Padmanabhan and Others

APPELLANT

Vs

S. Arumugam and Others

RESPONDENT

Date of Decision : 12-06-2013

Acts Referred:

Citation : (2013) 06 MAD CK 0184

Hon'ble Judges : M.M. Sundresh, J;M. Jaichandren, J

Bench : Division Bench

Advocate : S. Parthasarathy, for Mr. D. Prabhu Mukunth Arunkumar, for the Appellant; P.S. Raman , for Mr. G. Krishna Kumar (R1) in Review Application No. 84 of 2013, (R6) in Review Application No. 85 of 2013, (R4) in Review Application No. 86 of 2013 and Review Application No. 87 of 2013 and (R5) in Review Application No. 88 of 2013, Mr. Lakshmi Ratan (R5) in Review Application No. 84 of 2013, (R4) in Review Application No. 85 of 2013, (R10) in Review Application No. 86 of 2013 and (R1) in Review Application No. 87 of 2013 and Review Application No. 88 of 2013 and Mr. V.P. Raman (R1, 2, 3, 7, 9, 10, 11 and 12) in Review Application No. 85, 86, 87 and 88 of 2013, for the Respondent

Judgement

M. Jaichandren, J.—The present Review applications have been filed praying that this Court may be pleased to review its common order,

dated 30.4.2013, passed in O.S.A. No. 408 of 2012 and O.S.A. Nos. 126 to 129 of 2013. The grounds raised by the review applicants, in the

above review applications, are as follows:

i) The order passed to uphold rule XXI(2)(ii) of the Rules and Bye-Laws of the Club stands in conflict with Rule XV v(a) to (g). As such, the

power of the general body of the Madras Gymkhana Club had been taken away. Therefore, there is an error apparent on the face of the record in

the order passed by this court, on 30.4.2013.

ii) The appointment of Mr. M.K. Kabir, Senior Advocate, to conduct the election for electing the office bearers of the Club, as per the existing

Rules and Bye-laws of the Club, is in violation of the Rules and Bye-laws of the Club, as per Rule XV(a)(i)(ii)(iii)(iv) and v(a)(d) and Rule XXI

and therefore, the role of Mr. M.K. Kabir, the court appointed Election Officer, ought to be reviewed.

iii) In Paragraphs 64, 66 and 67 of the order under review, dated 30.4.2013, it has been mentioned that the Election Officer should conduct the

election for the `office bearers of the Club. In fact, the election is to be conducted for the posts of `office bearers and the `committee members of

the Club. Therefore, the words `committee members ought to be mentioned in the said paragraphs of the order of this Court, dated 30.4.2013,

along with the words `office bearers.

iv) The power to decide the appropriate course of action, with regard to the alleged mismanagement of the Club by the office bearers and the

committee members is vested with the general committee, as per Rule 1B(a) of the Rules and Bye-laws of the Club. However, in paragraph 64 of

the order of this Court, dated 30.4.2013, it has been stated that it would be open to the office bearers, who may be elected in the ensuing election,

to decide on the appropriate course of action to be taken. Therefore, the order of this Court, dated 30.4.2013, ought to be reviewed.

v) The representation of Mr. P. Shanker, signed by 111 members of the Madras Gymkhana Club, submitted to the Secretary of the said Club,

stating that the appeal made by the Club, in O.S.A. Nos. 126 and 127 of 2013, is not maintainable, as the members do not want to go on appeal,

had not been taken into consideration, by this court, while passing its order, dated 30.4.2013.

vi) This court had passed the order, dated 30.4.2013, without taking into account that some of the members had resigned from the committee and

that the President of the Club had died. The remaining members cannot represent the Club, as an appellant, as they are only having `self interest.

vii) Some of the other grounds raised regarding the maintainability of the appeal, in O.S.A. Nos. 126 to 129 of 2013, had not been taken into

account by this Court, while passing its order, dated 30.4.2013.

2. The learned counsels appearing on behalf of the respondents in the present

review applications had submitted that there is no objection for this court modifying its order, dated 30.4.2013, made in O.S.A. No. 408 of 2012 and O.S.A. Nos. 126 to 129 of 2013, to add the words `committee members after the words `office bearers, in paragraphs 64, 66 and 67 of the order of this court, dated 30.4.2013. However, with regard to the other contentions raised on behalf of the review applicants they had submitted that the review applications are not maintainable, as it is devoid of merits.

3. It has been stated that there are no errors apparent on the face of the record, as stated in the grounds of review. As the power of review of this Court is limited in nature, it is not open to the review applicants to seek the review of the order passed by this court, dated 30.4.2013, by raising irrelevant grounds.

4. At this stage of the hearing of the review applications, the learned Senior Counsel, Mr. S. Parthasarathy, Senior Advocate, appearing for the review applicants had submitted that the election schedule, for the election to be held for the posts of office bearers and the committee members of the Madras Gymkhana Club, as proposed by the order passed by this court, dated 30.4.2013, in O.S.A. No. 408 of 2012 and O.S.A. Nos. 126 to 129 of 2013, may be revised to make it convenient for the court appointed Election Officer, Mr. M.K. Kabir, to conduct the election, effectively. In fact, the learned counsel appearing on behalf of the review applicants had submitted a schedule of dates for the holding of the election, by the Election Officer concerned.

5. The learned counsels appearing on behalf of the parties concerned had further submitted that this court may be pleased to direct the court appointed Election Officer, Mr. M.K. Kabir, to publish the list of members, who would be eligible to participate in the election process, at an appropriate time, so that corrections and rectification, if any, could be made in the said list, based on the representations of the members concerned. They had also submitted that the preamble to the Rules and the Bye-laws of the Club prescribes that the number of resident members shall be limited to 2025. Therefore, the court appointed Election Officer may be directed to follow the said mandate. They had also submitted that it may be made clear that only the resident members, who are eligible, as per

the Rules and the Bye-laws of the Club shall be permitted to participate in the elections. They had also stated that no proxy voting should be permitted by the court appointed Election Officer at the time of the election.

6. In view of the said submissions made by the learned counsels appearing on behalf of the parties concerned, this court finds it appropriate to direct the court appointed Election Officer, Mr. M.K. Kabir, to publish the list of members of the Club, who would be eligible to participate in the election process at an appropriate time, so as to enable the members concerned to make their representations, for carrying out the necessary rectifications and corrections, if any, before the election is held, as per the Rules and the Bye-laws of the Club. The said list shall be displayed on the main notice board of the Club. The Election Officer is also directed to follow the mandate prescribed in the preamble and the Rules and the Bye-laws of the Club to limit the number of eligible members to 2025. The Election Officer shall also make it clear that it would only be the resident members of the Club who would be eligible to participate in the election process, as per the Rules and the Bye-laws of the Club. The Election Officer is directed to complete the election process, as directed by this Court, on or before 15.8.2013. As requested by the learned counsels appearing on behalf of the parties concerned, it is made clear that proxy voting shall not be permitted by the Election Officer, at the time of the election. Further, the order passed by this Court, on 30.4.2013, in O.S.A. No. 408 of 2012 and O.S.A. Nos. 126 to 129 of 2013, shall stand modified, as prayed for by the review applicants, by adding the words 'committee members', in paragraphs 64, 66 and 67, after the words 'office bearers'. Thus, it is made clear that the court appointed Election Officer Mr. M.K. Kabir, shall conduct the election for the office bearers and the committee members of the Madras Gymkhana Club, as per the directions issued by this Court. The other grounds raised by the review applicants stands rejected, as they are devoid of merits. The Review applications are ordered accordingly.