
(2008) 11 AP CK 0057
In the Andhra Pradesh High Court
Case No : C.R.P. No. 2057 of 2005

Nizam Club

APPELLANT

Vs

Jayanthi Lal Goel

RESPONDENT

Date of Decision : 03-11-2008

Acts Referred:

Andhra Pradesh and Telangana Societies Registration Act, 2001 — Section 23
Andhra Pradesh Societies Registration Rules, 2001 — Rule 17

Citation : (2009) 4 ALD 244 : (2009) 1 ALT 861

Hon'ble Judges : K.C. Bhanu, J

Bench : Single Bench

Advocate : S. Niranjan Reddy, for the Appellant; Nazir Ahmed Khan, for the Respondent

Final Decision : Dismissed

Judgement

K.C. Bhanu, J.—This Civil Revision Petition is directed against the order, dated 19-1-2005, passed in O.P. No. 3081 of 2003 on the file of the XIV Additional Chief Judge, City Civil Court, Hyderabad, wherein and whereby the application filed u/s 23 of the Andhra Pradesh Societies Registration Act, 2001, seeking to set aside the resolution, dated 5-12-2003, passed by the Managing Committee of the petitioner-club removing the name of the respondent from the membership roll and for declaring the resolution as null and void was allowed.

2. Learned Counsel appearing for the petitioner-club contended that the respondent committed default in payment of membership fee of more than Rs. 2,000/- and that as per the Rules of the petitioner-club, there is (sic. no) other option, but to expel the membership of the respondent and the resolution of the Managing Committee, dated 5-12-2003, is completely in accordance with the Rules governing the maintenance of the club and therefore, he prays to set aside the impugned order.

3. On the other hand, learned Counsel appearing for the respondent contended that due to ill-health, there was default in payment of membership fees and that

the membership fee has been paid subsequently; that the respondent was a member of the petitioner-club for the last 20 years and on earlier occasions, there was no default in payment of membership fee, therefore, the impugned order does not suffer from any infirmities so as to call for interference by this Court.

4. It is not in dispute that the respondent was declared as defaulter for three times, therefore he ceased to be a member of the petitioner-club. After passing the resolution, dated 5-12-2003, admittedly, the respondent paid the entire amount due to the petitioner club. Ex. B-1 is the Bye-laws of the petitioner-club. Ex. B-2 is the Rules of the petitioner-club.

5. Under Rule 17(a) of the Rules of the petitioner-club, a member who fails or refuses to pay any amount due to the club for a period exceeding six months or who has been declared as a defaulter under Sub-rule 16 (e) three times within a period of two calendar years, he shall be declared by the Managing Committee to have ceased to be a member of the club and the Secretary shall thereupon intimate the member of the above decision and also to be put the same in the notice board.

6. The resolution, dated 5-12-2003, is completely in accordance with the Rules governing the petitioner-club. As the respondent was a defaulter for three months within a period of two calendar years, as per Ex. B-9-letter, dated 15-5-2002, he was directed to pay the amount due by 31-5-2002, but he did not pay that amount, therefore, he was declared as a defaulter by the Managing Committee by passing the said resolution. Thereafter, the petitioner-club intimated the resolution passed by the Managing Committee to the respondent on 17-6-2002, but, the respondent paid the amount due under Ex. B-9 on 19-12-2003 under Ex. A.10.

7. As a matter of fact, the trial Court also observed that the conduct of the petitioner, in not remitting the amount due to the petitioner-club having availed the privileges in the club, was not appreciable, but, considering the fact that he was sick and an aged man and was a member of the petitioner-club for the last 40 years, condoned the default committed by him.

8. This is purely an equitable relief granted by the trial Court to the respondent.

9. Considering the facts and circumstances of this case, the trial Court exercised its discretion properly and hence, there are no grounds to interfere with the impugned order.

10. However, the respondent shall not commit any default in future and this order cannot be taken as a precedent for any other case because this order is only with reference to the peculiar facts and circumstances of this case. With the above directions and observations, the Civil Revision Petition is dismissed. No costs.