

(2008) 04 MAD CK 0168

In the Madras High Court

Case No : W.A. (MD) No. 345 of 2008 and W.P. (MD) No. 3543 of 2008 and M.P. (MD) No. 1 of 2008 in W.A. (MD) No. 345 of 2008 and M.P. (MD) No's. 1 and 2 of 2008 in Writ Petition (MD) No. 3543 of 2008

P.V. Kadiravan

APPELLANT

Vs

Kallar Kalvi Kazhagam and Others

RESPONDENT

Date of Decision : 30-04-2008

Acts Referred:

Constitution of India, 1950 — Article 226

Tamil Nadu Societies Registration Act, 1975 — Section 15, 15(1), 17(2), 34, 34(1)

Citation : (2008) 04 MAD CK 0168

Hon'ble Judges : S. Manikumar, J;R. Banumathi, J

Bench : Division Bench

Advocate : Veera Kathiravan, R. Vidhuthalai in WA and Mr. Isaac Mohanlal in WP, for the Appellant; Isaac Mohanlal in WP, R. Vidhuthalai RR 6 and 7 in W.P., Mr. Isaac Mohanlal for Respondent-1 in WA and Mr. Pala. Ramasamy, Spl.Govt. Pleader for R-2 to R-6 in W.A. and R-1 to R-5 in W.P., for the Respondent

Judgement

R. Banumathi, J.—Writ Appeal No.354/2008 is preferred against the interim orders passed in M.P.(MD)No.2 of 2008 in W.P.(MD) No.3543/2008, staying the proceedings of the District Registrar of Societies, Periyakulam, dated 08.04.2008. Writ Petition No.3543/2008 is filed challenging the acceptance of Form No.VII filed by the Appellant by the proceedings of the District Registrar of Societies, Periyakulam, dated 08.04.2008. For convenience, the parties are referred as per the array of parties in the Writ Petition. Background facts which led to the filing of the Writ Petition and the Writ Appeal, are as follows:

(a) Kallar Kalvi Kazhagam, Usilampatti (in short "Kallar Society") is a Society Registered under the Tamil Nadu Societies Registration Act, 1975 (in short "the Act") on 30.12.1967. The main purpose of the Kallar Society is to start and manage educational institutions at all levels, including Arts and Science Colleges at Usilampatti and other places in Tamilnadu in order to impart education, generally to students of de-notified Tribes, Backward Classes, Scheduled Caste

and Tribes and to provide facilities to studies in Technology, Agriculture and Research. The Kallar Society, by virtue of its Bye-Laws, has powers to raise funds by way of subscriptions, donation and endowments and also has the right to acquire properties in order to augment the sources of income.

(b) The Kallar Society runs an Arts and Science College, namely Pasumpon Muthuramalinga Thevar College, in Usilampatti. The College was established in the year 1968. It is affiliated to Madurai Kamaraj University. There are 1119 members on the rolls as per Form VI, dated 05.11.2005, submitted by the Kallar Society. The Managing Committee consists of 16 members, including the President, Secretary and Treasurer. They are elected by the General Body and the term of the Managing Committee is ordinarily 3 years from the date of election.

(c) The last election was held on 05.11.2005 and accordingly new office bearers, with 13 Executive Members, were elected to the Kallar Society. The Writ Petitioner O.R.Ramachandrari was elected as Secretary and one Irulandi and Thavasi were elected as President and Treasurer, respectively. The tenure starts from 05.11.2005 upto 04.11.2008.

(d) As per the Bye-Laws of the Kallar Society, the Secretary of the Society will be the Secretary of the College Committee and hence the Secretary of the Society O.R.Ramachandran became the Secretary of the College Committee also.

(e) There has been several litigations and in-fight for the management of the Society and the College Committee between two groups, to which we would refer shortly. Extraordinary General Body Meeting was held on 13.12.2006, in which one M.P.Ramar was said to be elected as the President and one O.Durairaj Thevar and K.P.Santhanam were elected as the Secretary and Treasurer, respectively and other Executive Members were also elected. Managing Committee was constituted in the Extraordinary General Body Meeting convened on 13.12.2006. The newly elected committee of the Society, constituted in pursuance of the Extra General Body Meeting convened on 13.12.2006, presented Form No.VII stating that as per the Resolution passed on 13.12.2006, the earlier committee was removed in toto. The Writ Petitioner filed O.S.550/2006 on the file of Sub-Court, Madurai that the meeting proposed to be convened on 13.12.2006 is illegal. Form No. VII was received by the 2nd Respondent -District Registrar with an endorsement that Form No. VII is filed subject to the result of Civil Suits O.S. No. 550/2006 on the file of Sub-Court, Madurai and O.S. No. 2/2007 on the file of District Munsif Court, Periyakulam.

(f) The Proceedings of the District Registrar was challenged by way of Writ Petition in W.P.(MD)No.960/2007 by the Writ Petitioner. In the said Writ Petition, the 2nd Respondent filed a counter stating that Form. No. VII was temporarily approved, subject to the final judgment in the pending suits O.S. No. 550/2006 and O.S. No. 2/2007. Recording the above statement of the District Registrar, W.P.(MD)No.960/2007 was disposed of by the order dated 06.03.2007 with an

observation that it would be open to the Writ Petitioner to work out his remedy before the appropriate forum.

(g) By Letter No.4027/I3/07, dated 08.05.2007, the Inspector General of Registration - 1st Respondent, directed the District Registrar to consider Form No.VII filed by Durairaj Thevar and also to get sanction for the delay in filing of Reports/Documents, if any. In response, by the proceedings dated 15.05.2007, the 2nd Respondent - District Registrar sent the Report to the 1st Respondent - Inspector General of Registration stating that Form No.VII filed by Durairaj Thevar was accepted, subject to the judgments in O.S. No. 550/2006 and O.S. No. 2/2007.

(h) Durairaj Thevar passed away on 20.12.2007. The 6th Respondent issued Paper Publication on 18.01.2008 convening General Body Meeting to be held on 09.02.2008. Even before convening the General Body Meeting, the Writ Petitioner filed a suit before the Sub-Court Madurai in O.S. No. 57/2008 seeking permanent injunction from convening the General Body Meeting. No interim injunction was granted. In the General Body Meeting held on 09.02.2008, K.S.K.Rajendran, M.L.A., 7th Respondent and one Chandrasekaran were elected as President, Secretary and Treasurer of Kallar Society, respectively. 6th Respondent and 15 others were elected as Managing Committee Members and the new Managing Committee was constituted. Form No.VII, along with a representation, was given to the 2nd Respondent for carrying out the amendment in the Executive Committee of the Society. The 2nd Respondent declined to register Form No.VII by the proceedings dated 12.03.2008 and directed the parties to approach the civil court. Being aggrieved, the 7th Respondent has preferred appeal before the 1st Respondent - the Inspector General of Registration. By the proceedings dated 01.04.2008, the Inspector General of Registration observed that there was no application of mind by the District Registrar and directed the District Registrar to consider the matter on merits and pass orders. The 2nd Respondent had taken Form No. VII on file by the impugned proceedings, dated 08.04.2008, with a note that Form No.VII is taken on file subject to the result of O.S. No. 550/2006.

2. Challenging acceptance of Form No.VII filed by the 7th Respondent, the Writ Petitioner seeks for issuance of Writ of Certiorari to quash the proceedings of the District Registrar registering Form No.VII. The learned Single Judge has granted interim stay on 15.04.2008. Stating that the Writ Petition challenging Form No.VII is not at all maintainable, the learned counsel for the 7th Respondent strongly opposed grant of interim stay before the learned Single Judge. In spite of the objection, interim stay was granted, which is the subject matter of challenge in the Writ Appeal.

3. With the consent of all the counsels, the writ petition itself was posted before us and heard along with the Writ Appeal. We have heard the arguments of all the counsels in extenso.

4. Mr.Isaac Mohanlal, learned counsel for the Writ Petitioner, submitted that

election disputes cannot be determined by the Registrar and as per the decision of the Full Bench of this Court in (2005) 2 MLJ 335 = 2005-2-L.W. 550 - C.M.S.Evangelical Suvi Davi Memorial Higher Secondary School Committee, Karisal v. The District Registrar, Cheranmahadevi, the Registrar could only direct the parties to approach the Civil Court and the District Registrar exceeded his power, Learned counsel further submitted that though in (2008) 1 MLJ 1308 = 2008-2-L.W.181 - R.Muralidaran v. District Registrar, this Court has held acceptance of Form No.VII is only a ministerial act, unless the Registrar holds prima facie satisfaction before receiving Form No.VII, it is not to be accepted. Placing reliance upon number of decisions, learned counsel would further submit that when the exercise of power u/s 34 of the Act is arbitrary, the monstrosity of the situation requires entertainment of a writ petition to prevent injustice.

5. Placing reliance upon (2008) 1 MLJ 1308 = 2008-2-L.W.181- R.Muralidaran v. District Registrar, Mr. R. Viduthalai, learned Senior Counsel appearing for the 7th respondent, has submitted that acceptance of Form No.VII is only a ministerial act and as against the proceedings of the District Registrar in accepting Form No.VII, Writ petition cannot be entertained. The learned Senior Counsel further submitted that the Writ Petitioner himself having approached the Civil Court and filed suit O.S. No. 57/2008 and having not obtained any interim order, invoking Article 226 of the Constitution of India is neither fair nor proper. Taking us through Rule 17 and Rule 50(1) of the Tamil Nadu Societies Registration rules, 1978 and Section 34 of the Act, the learned Senior Counsel would submit that a combined reading of Section 34 read with Rule 17 of the Rules would show that the purpose of calling for information or explanation u/s 34 is only to complete the records and to maintain the records correctly in respect of the Society and the proceedings of the District Registrar, being a ministerial act, is not amenable for writ jurisdiction.

6. We have also heard the learned Special Government Pleader appearing for Respondents 1 to 5.

7. It is the first and foremost contention of the Writ Petitioner that the office bearers, including himself were duly elected by the General Body of the Association on 05.11.2005 and they have taken charge on 05.11.2005 and they will continue to hold their office till 04.11.2008. It is the case of the Writ Petitioner that Durairaj Thevar, who contested for the post of Secretary and lost in the election, started giving trouble to the smooth functioning of the Kallar Society and the administration of the College Committee and after the death of Durairaj Thevar, the 6th Respondent started to do all misdeeds against the interest of the Society. The 6th Respondent, describing himself as the Secretary of the Society, gave an Advertisement in News Papers on 18.01.2008 convening an Extraordinary General Body Meeting of the Society to be held on 09.02.2008. It is the further case of the Writ Petitioner that no such meeting had taken place on 09.02.2008 and as such no election ever took place and the 2nd Respondent has rightly rejected Form No.VII by the proceedings No.551/A2/2008, dated

12.03.2008. But the same Registrar, without advertng to the earlier orders and without issuing any notice to the Society, had passed the impugned order accepting Form No.VII.

8. Bye-Law No.23 of the Kallar Society deals with the constitution of Managing Committee as well as the College Committee. Bye-Law 23 of the Society reads as under:

"23. Constitution of Managing Committee:

The immediate control and Management of the Association and its institutions shall vest in a Managing Committee consisting of sixteen members duly elected by the members of the Association once in three years.

The Committee shall constitute one President, one Secretary, one Treasurer and thirteen Members.

b)Constitution of the College Committee:

All the elected Managing Committee Members and the Teaching and Ex-officio members recommended as per Tamil Nadu Private College Act 1976, shall constitute the College Committee."

9. The Writ Petitioner O.R.Ramachandran and Irulandi were elected as Secretary and President of Kallar Society in the election held on 05.11.2005. Director of Collegiate Education has also approved the selection of the Writ Petitioner as Secretary of the College Committee by the Proceedings dated 22.11.2005 for a period of three years from 09.11.2005. Learned counsel for the Writ Petitioner forcibly contended that the term of the Managing Committee is for a period of three years and the Writ Petitioner and other office bearers are entitled to hold the post till 04.11.2008 and while so, in accepting Form No.VII by the other Managing Committee allegedly elected, the District Registrar has exceeded the jurisdiction and the impugned proceedings has caused chaos in the administration of the Society and the College.

10. The contention that the Managing Committee as well as the College Committee are entitled to hold the post for the entire period of three years is unacceptable. As per bye-law 24, the members of the Managing Committee as well as the College Committee shall ordinarily hold office for a period of three years or continue to function till a new committee is elected. Holding of post for the entire period of three years is not an inflexible rule.

11. The 6th Respondent and their group are said to have convened General Body on 09.02.2008. In the General Body, one K.S.K.Rajendran, M.L.A., was elected as President and the 7th Respondent was elected as Secretary and one Chandrasekar as Treasurer. As many as 16 Managing Committee members are said to be elected (as is seen from Form VII filed by the 7th Respondent).

12. The dispute between both parties pertains to election to the Kallar Society. As held by the Full Bench of this Court in 2005(2) MLJ 335 = 2005-2-L.W. 550

(cited supra), any dispute as to the validity of election should be decided only by the competent Civil Court, as the parties are entitled to let in their evidence to sustain their respective claims. In Paragraph 20, the Full Bench has held as follows:

"20.....Validity of the election could very well be decided only by the competent Civil Court as the parties are entitled to let in their evidence to sustain their respective claims. In the event the Registrar satisfies himself as to the particulars furnished in Form VII as correct, he should enter the names in the register maintained for that purpose. In the event if he does not satisfy as to the particulars and thereby does not accept Form VII, he has to issue a direction relegating the parties to approach the civil Court for appropriate orders and thereafter shall act as per the orders of the civil Court...."

13. The Writ Petitioner had already filed O.S. No. 57/2008 seeking for a declaration that the 6th Respondent and his group of men are not empowered to convene the Extraordinary General Body Meeting of Kallar Society on 09.02.2008 and for permanent injunction restraining them from in any way interfering with the administration and running of the Society and its activities. We find much force in the contention of the learned Senior Counsel Mr.R.Viduthalai that the Writ Petitioner having approached the Civil Court for the same relief cannot seek for similar remedy invoking Article 226 of the Constitution of India and the Writ Petition is not maintainable.

14. The Tamil Nadu Societies Registration Rules, 1975 - Rule 17 deals with filing of copy of the register of members and notice of change of members or committee. As per Rule 17(2), the notice of any change among the members of the society or of the committee shall be filed in Form No.VII within three months from the date of such change. The notice of change among the members of the committee shall be accompanied by the resolution of the meeting, if any, effecting such change.

15. As per Rule 50(1), The Registrar shall examine every list, statement, intimation, notice or other document received by him which is required by the Act of these rules to be registered, recorded, or filed and if he finds any such list, statement, intimation, notice or other document to be defective or incomplete in any of the particulars required by the Act or these rules, he shall return it to the party or society tendering it, for due rectification or completion and until, such list, statement, intimation, notice or other document is so rectified or completed he shall not register, record or file the same. As per Rule 50(2), a separate file shall be maintained in respect of each registered society. The Registrar shall file all documents relating thereto received from time to time in chronological order in the order of the dates on which they are received by the Registrar.

16. Section 34 of the Act deals with the power of the Registrar to call information or explanation. A reading of Section 34(1) would reveal that where the Registrar, on perusal of any document which a registered society is required to file with the

Registrar under the provisions of the Act and where the Registrar is of the opinion that any information or explanation is necessary with respect to any matter to which such document purports to relate, he may, by order in writing, call on the registered society filing the document to furnish in writing such information or explanation within such time he may specify in the order. As is seen from Section 34(3), on receipt of such information or explanation, the Registrar may annex the same to the original document filed with him and the additional document so annexed by the Registrar shall be subject to the like provisions as to inspection and the taking of copies as the original document is subject.

17. A combined reading of Section 34 read with Rule 17(2) would make it clear that Form No.VII is to inform any change among the members of the society or constitution of the committee. On filing of Form No.VII, the Registrar may annex the same to the original document. Any information or explanation, which the Registrar may call upon u/s 34(1) is only for maintaining correct records/documents for the purpose of annexing the same to the original files maintained in respect of each of the registered society. These annexed documents are subject to inspection and taking of copies as the original document is subject [Section 34(3)]. If any discrepancy and particulars called for is only to make the files complete. Thus, the power of the Registrar u/s 34 to call for information or explanation is only incidental for maintaining correct records.

18. The power of the Registrar u/s 34 is thus only incidental and it is only for the purpose of maintaining correct records. Form No.VII prescribes the format in which a notice of any change among the members of the society or the committee is to be filed before the Registrar. Filing of Form No.VII is only consequential to any change i.e. change of members or change of constitution of the committee. As we have pointed out earlier, Form No.VII so filed is only for the purpose of maintaining separate file in respect of each registered society.

19. Observing that acceptance of Form No.VII is only a ministerial act and that it cannot be challenged by way of Writ Petition under Article 226 of the Constitution of India, First Bench of this Court in 2008-2-L.W.75 [(2008) 1 MLJ 1308] ? R. Muralidaran & 6 others v. The District Registrar, South Madras and another, held as under:

"29. It is seen that the requirement under Rule 17(2) for filing Form No.VII stems out of the requirement u/s 15 of the Act.....

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32. From a bare reading of Sub Section (1) of Section 34, it is clear that the only obligation cast upon the Registrar, upon receipt of any document or Form filed under the Act, is to call for any further information or explanation in respect of any matter, to which, such document relates to. Sub Section (3) makes it still more clear by prescribing that the Registrar may annex such information or explanation to the original document filed with him. Therefore, if Form No.VII is

filed with the Registrar, as required by Section 15(1) of the Act read with Rule 17(2) of the Rules, all that the Registrar can do is only to call for further information or explanation u/s 34(1) and keep the information or explanation received by him as an annexure to the original document. This is nothing but a mere ministerial function and hence, it cannot be challenged by way of a writ petition under Article 226 of the Constitution of India.

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39. Therefore, we hold that a writ would not lie against any ministerial act performed by the Registrar of Societies under the Provisions of the Tamil Nadu Societies Registrar Act, including the acceptance or rejection of Form No.VII. Whenever Form No.VII is filed, the District Registrar can only call for further information/explanation and file the same along with the Form u/s 34 and he is not entitled to adjudicate any dispute....."

In our considered view, the above observation applies in all fours to the present case.

20. Learned counsel Mr.Isaac Mohanlal forcibly contended that even u/s 34 of the Act, the Registrar has to hold an enquiry for his own satisfaction for the purpose of maintaining correct records. Laying emphasis upon the observations of the Full Bench in (2005) 2 MLJ 335 = 2005-2-L.W.550, the learned counsel made forcible submission contending that exercise of power must not be arbitrary and the orders passed or directions issued by the Registrar is amenable to challenge under the writ jurisdiction.

21. Considering the scope and power of the Registrar u/s 36 of the Act and observing that the power of the Registrar under the Act is only intended to regulate the affairs of the Society, in (2005) 2 MLJ 335 = 2005-2-L.W.550-C.M.S.Evangelical Suvi Davi Memorial Higher Secondary School Committee, Karisal vs. The District Registrar, Cheranmahadevi, in paragraph 18, the Full Bench of this Court has held as under.

"18. The power of the Registrar to enquire into the affairs of the society is only to hold a summary inquiry for his own satisfaction. The said power cannot be construed as the power of appeal. Under Sec.36, the Registrar has not been empowered to adjudicate upon the conflicting claims to represent the society based upon question of fact. A plain reading of Sec.36 shows that the Registrar could look into only the provisions of the Act and the Rules and prima facie materials to arrive at a conclusion either to believe or not to believe Form No.VII in order to effect change in the register. The power of the Registrar to call for information and explanation under Sec.34 does not contemplate any power to examine witnesses or to allow opportunity for cross examination of witnesses. The power in our view is incidental and it is only for the purpose of maintaining correct records. As the power to conduct inquiry is only limited in order to find out whether constitution of members are valid, the inquiry is limited only for the purpose of making entries in the register. However, the exercise of power must

not be arbitrary as the orders passed or directions issued by the Registrar is amenable to challenge in the writ jurisdiction."

22. As seen from Paragraph 18 of the Judgment of the Full Bench extracted above, the Full Bench dealt with the power of the Registrar, both u/s 36 and u/s 34 of the Act. Since Section 36 of the Act empowers the Registrar to conduct an inquiry, the Full Bench held that the exercise of such power u/s 36 should not be arbitrary as the orders passed by the Registrar would be amenable to challenge in the writ jurisdiction. But, insofar as the power u/s 34 is concerned, the Registrar is not expected to conduct any inquiry except to call for additional information or explanation and that too just for the purpose of filing it as Annexure to the original document. Full Bench has clearly held that power u/s 34 is only incidental and it is only for the purpose of maintaining correct records.

23. After General Body Meeting and election on 09.02.2008, when the 7th Respondent has filed Form No.VII, the District Registrar by the proceedings No.1551/A2/2008, dated 12.03.2008, returned Form No.VII and quoting the Full Bench decision of this Court, directed the parties to approach the Civil Court, the said proceedings of the District Registrar reads as under:

event if the Registrar does not satisfy as to the particulars and thereby does not accept Form VII, he has to issue a direction relegating the parties to approach the civil Court

24. The matter was taken to the Inspector General of Registration - 1st Respondent. Observing that without application of mind the District Registrar has arbitrarily returned Form-VII, the 1st Respondent, by the Proceedings No. 12734/13/08, dated 01.04.2008, directed the District Registrar to consider the matter on merits and pass orders. Thereafter, the District Registrar considered the matter afresh and accepted Form No.VII by the impugned proceedings, which reads as under:

Form No.VII was accepted subject to the result in I.A. No. 981/2006 in O.S. No. 550/06.

25. Laying scathing attack on the impugned proceedings, the learned counsel for the Writ Petitioner contended that the same Registrar, who returned Form No.VII by the proceedings dated 12.03.2008, has accepted Form No.VII and the impugned proceedings is diagonally opposite to his own order passed on 12.03.2008. Learned counsel further argued that the impugned proceedings is manifestation of malicious act on the part of the Registrar to turn around and register Form No.VII submitted by the 7th Respondent and no reason whatsoever has been assigned as to how the 2nd Respondent registered Form No.VII said to have been submitted by the 7th Respondent. Learned counsel would further contend that excepting Sl. Nos. 18, 19, 29, 30, 31 and 32, the others were not members of the Society while filing Form No.VII and the Registrar ought to have verified members Register and previous Form-VII and exercising his power u/s 34 of the Act ought to have called for further information before registering Form

No.VII. Learned counsel would further submit that the impugned proceedings would prima facie show that there was arbitrary exercise of power, without calling for correct information and the act of the 2nd Respondent is certainly amenable to the writ jurisdiction.

26. Of course, Form No.VII filed by the 7th Respondent was earlier rejected by the aforesaid proceedings dated 12.03.2008. But, it is not an inflexible rule that once Form No.VII was rejected, the 2nd Respondent cannot reconsider the same afresh. Filing of Form No.VII is consequential to any change among the members of the Society or of the constitution of Committee. On being sent back by the Inspector General of Registration, the 2nd Respondent has considered the matter afresh and filed Form No.VII. Merely because the 2nd Respondent had taken a different view, the Writ Petitioner is not right in contending that it was a malicious act.

27. Contending that when the exercise of power u/s 34 is arbitrary and the monstrosity of the situation requires entertainment of the writ petition, Mr.Isaac Mohanlal placed reliance upon (1976) 2 SCC 82 - Rohtas Industries Ltd. v. Rohtas Industries Staff Union; (1986) 2 SCC 679 - Comptroller and Auditor-Gen. of India v. K.S.Jagannathan. Placing reliance upon (1989) 2 SCC 691 - Andi Mukta S.M.V.S.S.J.M.S. Trust v. V.R. Rudani, the learned counsel further contended that to prevent injustice, the Court may pass appropriate orders by quashing the impugned proceedings. Placing reliance upon (2001) 5 SCC 664 - Tandon Brothers vs. State of West Bengal and Others, the learned counsel would further submit that the Writ Petitioner need not prove mala fide and lack of good faith is sufficient to quash the proceedings and the impugned proceedings on the face of it shows lack of good faith warranting interference.

28. The decisions relied upon by the learned counsel are pertaining to matters of State VIS-A-VIS the individuals where the fundamental rights of individuals are involved. The proposition laid down in those decisions may not be applicable to the factual situation of the present case where we are dealing with a registered society. The society is a voluntary association of individuals and it is not even a juridical person. Whenever there is any dispute between the members, the bye-laws would govern the parties and whenever there is any dispute as to the election and the constitution of the committee, the only remedy is before the civil court.

29. Mr.Isaac Mohanlal, the learned counsel for the Writ Petitioner mainly harped upon the proceedings in the civil suit O.S. No. 550/2006 and would contend that Durairaj Thevar and Respondents 6 & 7, one after another, are bent upon creating problems to the smooth functioning of the Society and the College Committee. The learned counsel has drawn our attention to the undertaking given by late Durairaj Thevar in O.S. No. 550/2006 (Page 67 of the typed-set of papers). From a reading of the proceedings in I.A. No. 1066/2006 in O.S. No. 550/2006, we find that the said Durairaj Thevar/ Defendant appeared in person and gave an undertaking and the Court directed the said Durairaj Thevar to

produce all the proceedings and minutes of the Extraordinary General Body Meeting before the Court. The learned counsel would further submit that Durairaj Thevar himself had given the undertaking that based on the meeting convened on 13.12.2006, he would not submit Form No.VII before the authorities.

30. The learned counsel for the Writ Petitioner had also drawn our attention to O.S. No. 2/2007 filed by the said Durairaj Thevar for permanent injunction restraining the District Registrar from entertaining any request or receiving any records or documents from O.R.Ramachandran/Writ Petitioner and for other reliefs. At that stage, the Registrar has accepted Form No.VII filed by Durairaj Thevar, subject to the result of O.S. No. 550/2006 and O.S. No. 2/2007.

31. Laying emphasis upon the earlier proceedings in O.S. No. 550/2006, the learned counsel Mr.Isaac Mohanlal would contend that after the death of Durairaj Thevar, at the best of the fragmented group. Respondents 6 and 7 purportedly convened the meeting on 09.12.2008. According to the learned counsel for the Writ Petitioner, the circumstances emerging from the proceedings in the civil suits are writ large showing that the 6th and 7th Respondents have come to fore after the death of Durairaj Thevar and these aspects were not taken into consideration by the Registrar. The learned counsel would further submit that while accepting Form No.VII filed by the 7th Respondent, the Registrar has ignored all the material aspects, which would warrant interference exercising jurisdiction under Article 226 of the Constitution of India.

32. We do not propose to go into the merits of the contention advanced pertaining to earlier proceedings in the civil suits. The question whether Respondents 6 & 7 represent a majority of the members or only the fragmented group could be gone into only in the civil suit when the parties would adduced evidence. We refrain ourselves from expressing any views on the merits of the proceedings in the civil suit.

33. Incidentally, we may also mention that in O.S. No. 57/2008 filed by the Writ Petitioner, the Writ Petitioner has sought for temporary injunction restraining the 6th and 7th respondents and group of members from convening the Meeting on 09.02.2008 and also restraining them from interfering with the administration of the Society and also restraining them from enrolling new members. Having not obtained any interim order in the said suit, the Writ Petitioner is not justified in invoking the Writ Jurisdiction. The interim stay granted by the learned Single Judge on 15.04.2008 is liable to be vacated.

34. Power to issue a Writ of Certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act so. Acceptance of Form No.VII is a ministerial act. We are in respectful agreement with the decision of the First Bench in R.Muralidaran's case (cited supra) and the act of the Registrar accepting Form No.VII being a ministerial act is not amenable for writ jurisdiction. In the result, the Writ Petition is dismissed. Writ Appeal No.345/2008 is allowed and the

impugned order of stay granted by the learned Single Judge in M.P. (MD)No.2/2008 in W.P.(MD)No.3543/2008 stands vacated. No costs. Connected M.P.(MD)No.1/2008 in W.A.(MD)No.345/2008 is closed and M.P.(MD)Nos. 1 and 2 in W.P.(MD) No.3543/2008 are dismissed.