

(2013) 09 MAD CK 0125

In the Madras High Court

Case No : Writ Petition No. 19731 of 2009 and M.P. No's. 1 and 2 of 2009

S. Pradeep Kumar

APPELLANT

Vs

Young Men's Indian Association and Others

RESPONDENT

Date of Decision : 16-09-2013

Acts Referred:

Citation : (2013) 09 MAD CK 0125

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : K. Anbazhagan, for the Appellant; A. Thiyagarajan, for Mr. S. Ramesh Kumar for R1 to R3 and Mr. K.V. Dhanapalan, AGP for R4 and R5, for the Respondent

Final Decision : Dismissed

Judgement

D. Hariparanthaman, J.—The petitioner is a life member of the first respondent Association, which is registered under the Tamil Nadu

Societies Registration Act, 1975 (for short Act). He made a representation dated 23.09.2008 to the 4th respondent viz., Registrar of Societies to

conduct an enquiry into the mismanagement and various activities of the office bearers of the 4th respondent u/s 36 of the Act. Since no action is

taken, the petitioner has filed this writ petition, seeking for a direction to the 4th respondent to consider his representation dated 23.09.2008 and

take action u/s 36 of the Act by passing appropriate orders.

2. The learned Senior Counsel appearing on behalf of respondents 1 to 3 has submitted that the matter is squarely covered by a decision of this

Court dated 02.09.2008 made in W.P. No. 19275 of 2008.

3. Heard both sides.

4. Section 36(1) of the Act may be usefully extracted hereunder:-

36. Power of Registrar to inquire into the affairs of registered society:-

(1) The Registrar may, of his own motion or on the application of a majority of the members of the Committee of a registered society or on the

application of not less than one-third of the members of that registered society, or, if so moved by the District Collector hold or direct some person

authorised by the Registrar by order in writing in this behalf to hold, an inquiry, in to the Constitution, working and financial condition of that

registered society.

5. Section 36 of the Act contemplates that the Registrar may enquire into the affairs of the registered society if application is received either from

the majority of the members of the Committee of a registered society or on the application of not less than one-third of the members of that

registered society.

6. Admittedly, the petitioner is not a member of the Committee. He is merely a member of the Association. Further, there are 204 members in the

Association. But the application is signed only by the petitioner and not by one-third of the members of the Association. Therefore, the petitioner

cannot seek for a direction to the 4th respondent to take action based on his representation dated 23.09.2008 to conduct an enquiry as

contemplated u/s 36 of the Act.

7. In identical circumstances, in paragraph 3 of the order dated 02.09.2008 made in W.P. No. 19275 of 2008, this Court observed as follows:-

3. At the most, this can only be construed as a representation to conduct an enquiry u/s 36 of the Tamil Nadu Societies Registration Act, 1975,

(hereinafter referred to as the "Act") which reads as hereunder:

In the face of such provision, to invoke the powers of the Registrar to conduct an enquiry, the application should be made by majority of the

members of the committee of a registered society or by one-third of the members of that registered society. It is submitted by the learned counsel

for the 4th respondent that the Governing Body of the Association consists of 24 elected members. But, the representation has been made only by

10 life members, which does not constitute a majority. Further, if it is to be construed as an application made by one-third of the ordinary members

of the Association, then, as on date, there are 204 members and therefore, one-third of the same would be much more than 10. In such

circumstance, there is no legal right on the part of the members to have the representation considered u/s 36 of the Act and consequently, there is

no legal obligation on the part of the Registrar of Societies to act on the representation made by 10 life members of the 4th respondent. Therefore,

there is no difficulty to come to the conclusion that the representation stated to have been made by some of the life members of the 4th respondent

Association cannot be directed to be considered in the absence of any legal right on the part of the members and consequential legal obligation on

the Registrar to conduct an enquiry as contemplated u/s 36 of the Act. For the above reason, the writ petition is liable to be dismissed.

Hence, I am of the view that the writ petition as such is not maintainable and accordingly, the same stands dismissed. However, it will not preclude

the petitioner from seeking remedy before the Civil Court, if he is so advised. No costs. Consequently, connected miscellaneous petitions are

closed.