
(2014) 10 MAD CK 0282

In the Madras High Court

Case No : Civil Revision Petition No. 4130 of 2014 and M.P. No. 1 of 2014

The Dakshina Gujarathi Khadewal Samaj

APPELLANT

Vs

Vidya Chethan

RESPONDENT

Date of Decision : 31-10-2014

Acts Referred:

Citation : (2014) 10 MAD CK 0282

Hon'ble Judges : K. Ravichandra Babu, J

Bench : Single Bench

Judgement

K. Ravichandrabaabu, J.—Mr. B. Harikrishnan, learned counsel takes notice for the respondent. By consent of both parties, the main Civil Revision Petition itself is taken up for final disposal.

2. The present Civil Revision Petition is filed challenging the order dated 15.09.2014 made in C.M.P. No. 1187 of 2014 in C.M.P. No. 583 of 2014 in C.M.A. No. 1 of 2012 on the file of the IV Additional City Civil Court, Chennai, in granting an interim order of status quo till the disposal of the C.M.P. Nos. 582 to 623 of 2014. The petitioner herein is the defendant in O.S. No. 1048/2011 filed by the second respondent herein to declare that the Oral Resolution passed by the Board of Administrators dated 17.10.2010 against the Rules and bylaws of the Samaj preventing the women folk from attending the Board of Administrators Meeting is ultra vires and unconstitutional and for permanent injunction restraining the defendants from preventing the elected members of the women folk of Administration in participating in all the future Board of Administrator Meetings. Pending suit, the plaintiff sought for an interim injunction restraining the defendants from effecting amendment in the bye-laws of the defendants, prohibiting the lady members from participating in the election and preventing them from attending the executive committee meeting. The Trial Court dismissed the said interim application filed in I.A. No. 1687 of 2011 by an order dated 23.09.2011.

3. Aggrieved against the same, the plaintiff filed C.M.A. No. 1 of 2012 before the

Lower Appellate Court. In the above said Civil Miscellaneous Appeal, the first respondent herein filed C.M.P. No. 583 of 2014 seeking for impleading herself as party respondent in the above said appeal, by contending that she is a necessary party to the proceedings. During the pendency of the above said Civil Miscellaneous petition, she also filed another Civil Miscellaneous Petition in C.M.P. No. 1187 of 2014 for a direction to the second respondent, namely the petitioner before this Court, not to conduct election on 21.09.2014 and maintain status-quo till the implead petitions filed by the petitioner and others are disposed of. The Lower Appellate Court allowed the said application and ordered status quo till the disposal of the C.M.P. No. 582 to 623 of 2014. Hence this Civil Revision Petition.

4. Heard the learned counsel appearing on either sides and perused the materials placed before this Court.

5. The grievance of the petitioner is that the Lower Appellate Court has erred in allowing the application filed in C.M.P. No. 1187 of 2014 in C.M.P. No. 583 of 2014 and ordering status quo at the instance of the proposed party, when admittedly she has not been made as a party in the appeal, as the implead petition filed by her is still pending for consideration by the Lower Appellate Court. Per contra, learned counsel appearing for the first respondent submitted that as the election was scheduled to be conducted on 21.09.2014 the said application was filed to prohibit the petitioner from conducting the election and to direct him to maintain status-quo and therefore the Court below has rightly allowed the application, which does not warrant any interference by this Court.

6. It is not in dispute that the first respondent herein is not a party in the above said suit. She wants to get herself impleaded as party respondent in the Civil Miscellaneous Appeal filed against the dismissal of the interim injunction sought by the plaintiff. Admittedly, the said application filed by the petitioner in C.M.P. No. 583 of 2014 is still pending and not disposed of. That means, that the first respondent is yet to be impleaded as a party respondent and her status is still continuing as a third party to the proceedings. When that being the factual position, I fail to understand how the Lower Appellate Court has entertained the interim petition filed by the first respondent in C.M.P. No. 1187 of 2014 seeking for a direction to the petitioner herein, not to conduct the election and to maintain status quo. Whether the first respondent has got merit in the implead petition or not, is not the issue before this Court. On the other hand, the issue is as to whether the first respondent is entitled to get such an interim order, when admittedly she has not been impleaded as a party respondent in the above appeal. Even the order passed by the Lower Appellate Court does not state any reason for ordering status-quo.

7. Considering all these aspects, I am of the view that the order passed by the First Appellate Court, challenged in this Revision, cannot be sustained. Accordingly, the Civil Revision Petition is allowed and the impugned order made in C.M.P. No. 1187 of 2014 in C.M.P. No. 583 of 2014 in C.M.A. No. 1 of 2012 is set aside. Consequently, the Lower Appellate Court is directed to take up the

implead petitions and dispose of the same on merits and in accordance with law, within a period of 30 days from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed. No costs.