

(2002) 11 MAD CK 0103

Madras High Court

Case No: Writ Petition No. 35565 of 2002

Dr. K.M. Cherian

APPELLANT

Vs

The Deputy Inspector General of
Registration Office of the Deputy
Inspector General of
Registration

RESPONDENT

Date of Decision: Nov. 13, 2002

Acts Referred:

- Tamil Nadu Societies Registration Act, 1975 - Section 29, 29(3), 36

Hon'ble Judges: P.D. Dinakaran, J

Bench: Single Bench

Advocate: C. Ramakrishnan, for S. Vishnu Mohan, for the Appellant; D. Krishna Kumar, Special Government Pleader, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

P.D. Dinakaran

1. Placing reliance on Section 29(3) of the Tamil Nadu Societies Registration Act, 1975, the petitioner, who claims to be the member of the Institute of Cardio - Vascular Diseases, a Society registered under the provisions of the Tamil Nadu Societies Registration Act, seeks a writ of mandamus to facilitate and enable the petitioner to access the books of account and the minutes of the meetings for a thorough scrutiny by the petitioner.

2. When the matter came up for admission on 13.9.2002, this Court passed the following interim direction:-

"In the meanwhile, the respondent is directed to consider the representation of the petitioner dated 12.9.2002 and issue appropriate orders to the concerned Society Viz., Madras Medical Mission exercising the powers conferred u/s 29 read with

Section 36 of the Societies' Registration Act, of course, after hearing the concerned Society and report the orders passed, on 19.9.2002."

3. The respondent, complying with the said direction of this Court dated 13.9.2002, after giving notice to the Society and based on the no objection from the Society permitted the petitioner to inspect the books of account and the minutes of the meetings of the Society, viz., Madras Medical Mission, free of charge.

4. However, Mr. C.Ramakrishnan, learned Senior Counsel appearing for the petitioner, submits that the petitioner seeks a direction from this Court directing the respondent to permit the petitioner to have the assistance of his auditor, while inspecting the books of account, as he is not familiar to scrutinise the accounts of the Society.

5. Mr. D.Krishna Kumar, learned Special Government Pleader, fairly submits that even though there is no specific provision under the Act or Rules to permit the auditors to inspect the books of account, this Court, by order dated 18.3.1993 made in C.M.P.No. 2442/93 in O.S.A.No. 155/86, has directed the Registrar of Societies, to permit the auditor of a member, to inspect the books of account.

6. In this regard, I am obliged to extract Section 29 of the Tamil Nadu Societies Registration Act, which reads as follows:

"Section 29. Minutes of proceedings of registered society's general meetings and of its committee. (1) Every registered society shall cause minutes of all proceedings of its general meetings, and of its committee to be entered in books kept for the purpose.

(2) Any such minute, if purporting to be signed by the Chairman of the meeting at which the proceedings were held or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) The books containing the minutes aforesaid and the books of account of the registered society shall be kept at the registered office of the society and shall, during business hours be open to the inspection of any member free of charge. "

Section 29(3) of the Act alone is relevant to the issue. 7. Section 29(3) contemplates that the books containing the minutes and the books of account of the registered society shall be kept at the registered office of the Society and the said books containing the minutes and books of account shall be open to the inspection of any member free of charge during the business hours.

8. The object and spirit of Section 29(3) of the Act, in my considered opinion, is to provide accessibility to the members of the registered society to inspect the books containing the minutes and the books of account of the registered society and to make them transparent to the members of the registered society. Therefore, viewing the matter through the object and spirit of the legislature, I do not find any

difficulty to hold that the member of the registered society is entitled to have the assistance of an expert, if so required, in the matter of maintenance of the accounts of the Society. Hence the request of Mr. C. Ramakrishnan, learned Senior counsel for the petitioner to permit the petitioner to have the assistance of the auditor cannot be rejected merely on the ground that there is no specific provision under the Act and Rules.

9. Reading down Section 29(3) of the Act and keeping in mind, the object and spirit of the legislature in enacting Section 29(3) of the Act, I am satisfied that the request of the learned Senior counsel for the petitioner to permit the petitioner to have the assistance of the auditor, while inspecting the books of account of the Society, is reasonable and justified.

10. In view of the above, I am obliged to direct the Registrar of the Societies to pass appropriate orders within one week from the date of receipt of copy of this order to permit the petitioner to have the assistance of his auditor namely, Mr. N.Raja, at the cost of the petitioner, while inspecting the books of account of the society, viz., Madras Medical Mission and also to permit the petitioner to inspect the books of minutes of the Society.

11. The writ petition is ordered accordingly. No costs.