

Pl.thenappan Vs. S.Thanu

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Court : Chennai

Decided On : Feb-01-2013

Judge : R.S.Ramanathan

Appellant : Pl.thenappan

Respondent : S.Thanu

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATE:

1. 2.2013. CORAM THE HON'BLE MR.JUSTICE R.S.RAMANATHAN
C.R.P.(PD)No.4258 of 2012 and M.P.Nos.1 and 2 of 2012 PL.Thenappan
Petitioner vs.

1. S.Thanu

2. K.Raghunathan

3. A.Kothandaramaiah

4. Chola Poonurangam

5. J.V.Rukmangathan

6. K.Murugan

7. Kalaipuli G.Sekar

8. S.Muthusamy

9. K.S.Srinivasan Respondents Civil Revision Petition to call for the records pertaining to the order dated 15.11.2012 passed in I.A.No.15857 of 2012 in O.S.No.6567 of 2012 on the file of the XI Assistant Judge, City Civil Court, Chennai and quash the same. For petitioner : Mr.P.S.Raman, Senior Counsel for Mr.T.K.S.Gandhi For R1 : Mr.V.T.Gopalan, Senior Counsel for Ms.R.Maheswari For RR2, 3 & 5 to 9 : Mr.M.S.Krishnan, Senior Counsel for Mr.Sagadevan For R4 : Mr.T.Thiyageswaran ORDER First respondent herein filed the suit in O.S.No.6567 of 2012 on the file of the XI Assistant Judge, City Civil Court, Madras for declaration that the Extra-ordinary/Special General Body Meeting of the Tamil Film Producers Council called for on 28.10.2012 for the purpose of passing a no confidence motion is illegal and for permanent injunction restraining respondents 2 to 9 herein from conducting the Extra-ordinary /Special General Body Meeting of the Tamil Film Producers Council either on 28.10.2012 or on any other subsequent dates. In that suit, the first respondent herein also filed application in I.A.No.15857 of 2012 for ad interim injunction and that was granted by order dated 17.10.2012. That order was challenged by respondents 2 to 9 herein who are the defendants in the suit by filing C.R.P.PD No.3991 of 2012 and that petition was allowed. While allowing the revision, the learned Judge appointed Mr.Justice E.Padmanabhan, Former Judge of this court to preside over the Extra-ordinary/Special General Body Meeting and directed the learned Former Judge Mr.Justice E.Padmanabhan to conduct the meeting as per the agenda. The meeting was conducted and a report was filed by the Former Judge Mr.Justice E.Padmanabhan and after hearing the objections filed by the first respondent and after hearing the arguments of both side, the learned XI Assistant Judge passed an order on 15.11.2012, fixing the date 20.11.2012 for opening of ballot boxes and counting of votes in the presence of Justice E.Padmanabhan and counsel for both sides with proper media coverage and also directed the City Commissioner of Police to provide proper police protection. This order dated 15.11.2012 is challenged by the revision petitioner who is a third party to the suit, in this revision after getting necessary permission from this court.

2. When the above revision was posted for arguments, the learned Senior Counsel Mr.P.S.Raman appearing for the revision petitioner informed this court that the first respondent/plaintiff filed S.L.P. before the Honourable Supreme Court in S.L.P.(Civil) No.35135 of 2012 and that matter was about to be listed on 22.11.2012 before the Honourable Supreme Court and therefore, submitted that depending upon the result of the S.L.P., the parties may be directed to submit their arguments. As all the parties agreed, the matter was adjourned and the Honourable Supreme Court passed an order on 22.11.2012 in the above S.L.P., as follows:- "Mr.Mukul Rohtagi, learned senior counsel for the petitioner, inter alia, submitted that neither the High Court nor the trial court had examined the requisition calling for the Extraordinary General Body Meeting (EGM) of the Association. He submits that, according to his instructions, the requisition did not bear the signatures of 50 regular producers entitled to be present and vote in such a meeting.

2. Responding to the above submission of Mr.Mukul Rohtagi, Mr.P.R.Kovilan Poongkuntran, learned counsel for the respondent No.2 submits that one C.R.P. (PD) No.4258 of 2012 P.L.Thenappan vs. S.Thanu and others is pending before the High Court of Madras which is fixed for tomorrow i.e., November 23, 2012. Although, the legality or correctness of the requisition is not an issue in that C.R.P., learned counsel for the respondent No.2 submits that he has no objection if the High Court is requested to examine whether the requisition, pursuant to which the said EGM has taken place, has been made by 50 regular producers entitled to be present and vote in such a meeting or not.

3. Having regard to the above submission, we request the High Court to look into the question of legality and validity of requisition which led to the order being passed by the High Court on October 25, 2012 that EGM be held on October 28, 2012.

4. In view of the above, Mr.Mukul Rohtagi, learned senior counsel for the petitioner is not desirous of prosecuting the Special Leave Petition. It is disposed of as such." 3. Thereafter, Mr.P.S.Raman, learned Senior Counsel appearing for the first respondent submitted that having regard to the order passed by the Honourable

Supreme Court, he is confining his arguments to the legality and validity of the request which led to the order being passed by the court in C.R.P.PD No.3991 of 2012. He further submitted that the Honourable Supreme Court has directed this court to look into the question of legality and validity of the requisition which led to the order passed by the court on 25.10.2012 in C.R.P. PD No.3991 of 2012 and submitted that legality of the requisition is questioned on the ground that the Tamil Film Producers Council has no power to pass a no confidence motion for the removal of office bearers when there is no provision in the bye laws of the Tamil Film Producers Council to pass a no confidence motion, no one is entitled to pass such a motion and therefore, the Extra-ordinary General Body Meeting called for by respondents 2 to 9 has no legal sanction and the office bearers of the Tamil Film Producers Council cannot be removed by passing no confidence motion. He further elaborated the arguments by submitting that the office bearers of the Tamil Film Producers Council were elected by the members for a specific period and they cannot be removed at the whims and fancies of the so-called members and when the bye-laws of the Council does not provide for passing of no confidence motion to remove the office bearers, it is not open to the members to convene an Extra-ordinary General Body Meeting for passing a no confidence motion to remove the office bearers. He further submitted that the suit filed by the first respondent/plaintiff is not at all maintainable without impleading the Tamil Film Producers Council which is a registering Body and the office bearers are sought to be removed by convening the Extra-ordinary General Body Meeting and that too without impleading the office bearers who are sought to be removed by reason of the resolution that may be passed in the Extra-ordinary General Body Meeting and therefore, the suit filed by the first respondent/plaintiff for injunction is not at all maintainable and therefore, when the suit itself is not at all maintainable, the court has no power to grant such order either passing an order of injunction restraining the convening of the Extra-ordinary General Body Meeting or to declare the same as illegal or permitting the convening of Extra-ordinary General Body Meeting for the purpose of passing a no confidence motion. The learned Senior Counsel Mr.P.S.Raman relied upon the judgment in PRATAP CHANDRA MEHTA v. STATE BAR COUNCIL OF M.P. ((2011) 9 SCC

573) in support of his contention that in the absence of any provision in the bye-laws for passing a no confidence motion to remove the office bearers, it is not open to the members of the Society to pass such a motion either in the Annual General Meeting or in the Extra-ordinary General Body Meeting and therefore, the convening of the meeting itself is illegal. The learned Senior Counsel further submitted that the revision petitioner is the Secretary of the Tamil Film Producers Council and as per the bye-laws of the Tamil Film Producers Council, the Secretary is the person to sue and be sued on behalf of the Council and therefore, he is entitled to challenge the order passed by the learned XI Assistant Judge permitting the counting of the votes in the Extra-ordinary General Body Meeting as per the direction of this court.

4. The learned Senior Counsel further submitted that the validity of the requisition which was also directed to be looked into by the Honourable Supreme Court relates to the power of the members to call for Extra-ordinary General Body Meeting and submitted that as per the bye-laws of the Council, a regular producer is any Individual/Concern/Firm/Company represented by himself or a person who has already produced and censored a Tamil straight picture as per bye law (3(e)) and only a regular producer can be a member and on being admitted as member of the Council, a certificate of membership alongwith ID Card shall be issued to the regular producer which contains the registration number, date, validity and category to which the member has been admitted and only on production of such identity cards, the members will be allowed to participate in the General Body Meeting or Special General Body Meeting to exercise the rights of vote in the elections for the office bearer and the Executive Committee. He, therefore, submitted that there is no proof that the persons who gave requisition for convening Extra-ordinary General Body Meeting are entitled to call for such Extra-ordinary General Body Meeting and in the absence of any proof that they can call for Extra-ordinary General Body Meeting, the convening of the meeting itself has no validity and that was also not properly appreciated by the courts while granting the relief. He further submitted that there was no proof that regular producers have voted in the Extra-ordinary General Body Meeting that was held by the order of this court in C.R.P. PD No.3931 of 2012 and in the absence of proof that regular producers have participated in the Extra-ordinary General Body Meeting convened

on 28.10.2012, it cannot be said to be legally valid. The learned Senior Counsel further submitted that as per the Extra-ordinary General Body Meeting, the meeting was scheduled to be held on 28.10.2012 and the XI Assistant Judge passed an order of ad interim injunction on 17.10.2012 restraining the convening of the Extra-ordinary General Body Meeting and that order was set aside by this court in C.R.P. PD No.3991 of 2012 only on 25.10.2012 and this court directed the conduct of the Extra-ordinary General Body Meeting as scheduled on 28.10.2012 and therefore, only three days were left and having regard to the earlier order passed by the XI Assistant Judge restraining the convening of the meeting, most of the members who are having residence and office outside Tamil Nadu and far away from the City of Chennai could not have made arrangements to attend the Extra-ordinary General Body Meeting convened on 28.10.2012 and therefore, if for any reason, this court comes to the conclusion that the convening of the Extra-ordinary General Body Meeting is legal, valid, then sufficient opportunity must be given to the members to participate and exercise their vote in the Extra-ordinary General Body Meeting to express their views on the no confidence motion.

5. Mr.V.T.Gopalan, learned senior Counsel for the first respondent/plaintiff submitted that having regard to the provisions of the Tamil Nadu Societies Registration Act and the fact that Tamil Film Producers Council is registered under the Tamil Nadu Societies Registration act, 1975, if any person is aggrieved by the functioning of the Council, he has to work out his remedies as per the Tamil Nadu Societies Registration Act and the Registrar has been conferred with the powers to conduct enquiry into the affairs of the Society as per section 36 of the Act and without exhausting the remedies available under the Act, the party should not have come to this court challenging the order passed by the learned XI Assistant Judge, City Civil Court. He relied upon the judgment reported in CHIEF CONSERVATOR OF FORESTS v. COLLECTOR ((2003) 3 SCC

472) in support of his contention.

6. Mr.T.Thiyageswaran, learned counsel for the fourth respondent supported the Extra-ordinary General Body Meeting and submitted that in the Extra-ordinary General Body Meeting convened on 28.10.2012, large number of members

participated and exercised their right of vote and therefore, it cannot be contended that re-polling has to be ordered with regard to no confidence motion due to short of time and relied upon the judgment reported in SMT.MEGHA & OTHERS v. THE DEPUTY COMMISSIONER & ANOTHER (CDJ 201.Karnataka High Court 041).

7. Mr.M.S.Krishnan, learned Senior Counsel appearing for respondents 2, 3 and 5 to 9 submitted that having regard to the order passed by the Honourable Supreme Court in S.L.P. (Civil) No.35135 of 2012, there is no need to go into the legality and validity of convening of the Extra-ordinary General Body Meeting or the competence of respondents 2 to 9 to call for such meeting and a reading of the order of the Honourable Supreme Court makes it clear that the Honourable Supreme Court has only directed whether the requisition was given by 50 regular producers as per the bye-laws of the Council and therefore, the interpretation of the learned Senior Counsel Mr.P.S.Raman regarding the legality and validity of the requisition as stated in the order of the Supreme Court need not be gone into. The learned Senior Counsel Mr.M.S.Krishnan submitted that the S.L.P. (Civil) No.35135 of 2012 was filed against the order passed in C.R.P. PD No.3991 of 2012 dated 25.10.2012 by which the learned Judge of this court set aside the order of interim injunction granted by the XI Assistant Judge and directed the convening of the Extra-ordinary General Body Meeting on 28.10.2012 as scheduled. He further submitted that in the Supreme Court, the learned Senior Counsel representing the first respondent/plaintiff submitted that the High Court did not examine the requisition for convening the Extra-ordinary General Body Meeting and according to his instructions, the requisition did not bear the signature of 50 regular producers entitled to be in present and voting such meeting. Nevertheless, the Honourable Supreme Court was informed about the present revision petition and having regard to the pendency of this revision, the counsel for the third respondent herein, who was the second respondent before the Honourable Supreme Court in the above SLP, submitted that the legality or correctness of the requisition is not an issue in the present C.R.P., and he has no objection if the High Court is requested to examine whether the requisition, pursuant to which the said Extra-ordinary General Body Meeting has taken place, was given made by 50 regular producers entitled to be present and vote in such a meeting or not and after hearing the submissions of the learned Senior Counsel

appearing for the first respondent and the third respondent herein, the Honourable Supreme Court in para 3 of the order made it clear requested this court to look into the question of legality and validity of the requisition which led to the order being passed by this court on 25.10.2012 and therefore, having regard to the submissions made by the counsel appearing for the parties, reflected para 1 and 2 of the order of the Supreme Court, the Honourable Supreme Court only directed this court to find out whether the Extra-ordinary General Body Meeting was convened at the requisition of 50 regular producers and therefore, the legality and validity of the requisition which has to be looked into is confined only to the competency of the persons who called for the Extra-ordinary General Body Meeting and the Honourable Supreme Court has not requested this court to go into the power of the council to pass the no confidence motion and therefore, a reading of para 3 of the order of the Honourable Supreme Court in the context of para 1 and 2, need to go into the competence of the Council to pass the no confidence motion and it is beyond the scope of the revision and the learned Senior Counsel appearing for the revision petitioner confined his arguments as per the order of the Honourable Supreme Court to the aspect of the legality and validity of the requisition which only means the competency of the members who gave requisition for convening of Extra-ordinary General Body Meeting and other issues need not be gone into.

8. He also submitted the list of regular producers and also the names of 50 regular producers who gave requisition for convening of Extra-ordinary General Body Meeting and submitted that those 50 persons who gave requisition to convene the Extra-ordinary General Body Meeting are regular producers eligible to call for such meeting and therefore, having regard to the limited scope of this revision, as per the directions of the Honourable Supreme Court, respondents 2 to 9 have proved that the Extra-ordinary General Body Meeting was called for by 50 regular producers and as per the order of this court made in C.R.P. PD No.3991 of 2012, Extra-ordinary General Body Meeting was conducted on 28.10.2012 and large number of members participated in the meeting and therefore, it cannot be contended that one more opportunity be given to the members to exercise their right regarding no confidence motion to be passed against the office bearers. The learned Senior Counsel further submitted that the Honourable Supreme Court also

disposed of the S.L.P.(Civil) No.35135 of 2012 on the basis of the submissions of the learned Senior Counsel appearing for the first respondent herein having regard to the observations made in para 3 of that order, the first respondent herein who was the petitioner in S.L.P.(Civil) No.35135 of 2012 expressed his desire not to prosecute the SLP and that was disposed of accordingly. He, therefore, submitted that having regard to the order of the Honourable Supreme Court, the order of this court made in C.R.P. PD No.3991 of 2012 dated 25.10.2012 has become final and while allowing the revision, this court rejected the arguments of the learned counsel appearing for the first respondent herein that no confidence motion cannot be passed and held that there is no prohibition for bringing no confidence motion in the bye-laws and in the absence of any prohibition, there cannot be any bar for convening Extra-ordinary General Body Meeting to discuss any agenda including no confidence motion and held that the nature of agenda to be discussed in the Extra-ordinary General Body Meeting cannot be the subject matter of court proceedings and held that 21 days clear notice was issued on 27.9.2012 and paper publication was given on 6.10.2012 fixing the date of Extra-ordinary General Body Meeting as on 28.10.2012 and therefore, as per clause 28(b) of the Bye-laws, 21 days clear notice was given for convening Extra-ordinary General Body Meeting and that finding cannot be assailed in this revision.

9. To appreciate the contention of the learned Senior Counsel Mr.P.S.Raman appearing for the revision petitioner, we will have to understand the order passed by the Honourable Supreme Court in S.L.P. Civil No.35135 of 2012. As stated supra, the above SLP was filed challenging the order passed in C.R.P. PD No.3991 of 2012 by the first respondent herein. The main objection that was canvassed before the Honourable Supreme Court in the above SLP was that the High Court failed to examine the requisition for convening Extra-ordinary General Body Meeting as the requisition did not bear the signature of 50 regular producers entitled to be present and vote in such a meeting. Further, in para 2 of the order passed in the SLP, the Honourable Supreme Court was informed about the pendency of the present revision and having regard to the submission of the counsel appearing for the third respondent herein and the counsel appearing for the revision petitioner herein before the Honourable Supreme Court, the Honourable Supreme Court requested this Court to look into the question of

legality and validity of requisition which led to the order being passed by the High Court on 25.10.2012 for convening of Extra-ordinary General Body Meeting on 28.10.2012.

10. It is submitted by the learned Senior Counsel Mr.P.S.Raman that the question of legality and validity of the requisition which was directed to be looked into by this court includes deciding the right of the members to move a no confidence motion in the absence of any provision to that effect in the bye-laws of the Council and also the qualification of the members who called for the Extra-ordinary General Body Meeting.

11. At this stage, it is to be pointed out that after issuing the list of members of the Tamil Film Producers Council and the list of members who gave requisition to call for Extra-ordinary General Body Meeting, the learned Senior Counsel Mr.P.S.Raman has not seriously canvassed the point that the persons who called for the Extra-ordinary General Body Meeting are not regular producers. As a matter of fact, having regard to the list of members and the 50 persons who called for Extra-ordinary General Body Meeting, I am of the opinion that the persons who called for Extra-ordinary General Body Meeting are regular producers as per the bye-laws and it cannot be challenged that they have no qualification to call for such Extra-ordinary General Body Meeting. Therefore, the only question to be decided is whether the contention of the learned Senior Counsel Mr.P.S.Raman that the question of legality means the power of the members to pass a no confidence motion in the absence of any provision in the bye laws.

12. As a matter of fact, in the judgment reported in (2011) 9 SCC 573.the Honourable Supreme Court held that unless there is express provision in the statute for passing a no confidence motion, it cannot be passed. The Honourable Supreme Court in that judgment relied upon the judgment reported in MOHAN LAL TRIPATHI v. DISTRICT MAGISTRATE, RAI BAREILLY ((1992) 4 SCC 80), and held as follows:- "Democracy is a concept, a political philosophy, an ideal practised by many nations culturally advanced and politically mature by resorting to governance by representatives of the people elected directly or indirectly. But electing representatives to govern is neither a 'fundamental right' nor a 'common

law right' but a special right created by the statutes, or a 'political right' or 'privilege' and not a 'natural', 'absolute' or 'vested right'. 'Concepts familiar to common law and equity must remain strangers to Election Law unless statutorily embodied.' Right to remove an elected representative, too, must stem out of the statute as 'in the absence of a constitutional restriction it is within the power of a legislature to enact a law for the recall of officers'. Its existence or validity can be decided on the provision of the Act and not, as a matter of policy. In the American Political Dictionary the right of recall is defined as, 'a provision enabling voters to remove an elected official from office before his or her term expired'. American Jurisprudence explains it thus, 'Recall is a procedure by which an elected officer may be removed at any time during his term or after a specified time by vote of the people at an election called for such purpose by a specified number of citizens'. It was urged that 'recall gives dissatisfied electors the right to propose between elections that their representatives be removed and replaced by another more in accordance with popular will' therefore the appellant could have been recalled by the same body, namely, the people who elected him. Urged Shri Sunil Gupta, learned counsel, that since, 'A referendum involves a decision by the electorate without the intermediary of representatives and, therefore, exhibits form of direct democracy' the removal of the appellant by a vote of no- confidence by the Board which did not elect him was subversive of basic concept of democracy. Academically the submission appeared attractive but applied as a matter of law it appears to have little merit. None of the political theorists, on whom reliance was placed, have gone to suggest that an elected representative can be recalled, only, by the persons or body that elected him. Recall expresses the idea that a 'public officer is indeed a 'servant of the people' and can therefore be dismissed by them'. In modern political set up direct popular check by recall of elected representative has been universally acknowledged in any civilised system. Efficacy of such a device can hardly admit of any doubt. But how it should be initiated, what should be the procedure, who should exercise it within ambit of constitutionally permissible limits falls in the domain of legislative power. 'Under a constitutional provision authorizing municipalities of a certain population to frame a charter for their own government consistent with and subject to the Constitution and laws of the State, and a statutory provision that in certain municipalities the Mayor and

members of the municipal council shall be elected at the time, in the manner, and for the term prescribed in the charter, a municipal corporation has authority to enact a recall provision'. Therefore, the validity or otherwise of a no-confidence motion for removal of a President, would have to be examined on applicability of statutory provision and not on political philosophy. The Municipality Act provides in detail the provisions for election of President, his qualification, resignation, removal etc. Constitutional validity of these provisions was not challenged, and rightly, as they do not militate, either, against the concept of democracy or the method of electing or removing the representatives. The recall of an elected representative therefore, so long it is in accordance with law cannot be assailed on abstract notions of democracy." 13. Further, the Honourable Supreme court also disagreed with the view taken by the Honourable High Court of Delhi in *BAR COUNCIL OF DELHI v. BAR COUNCIL OF INDIA* (AIR 197.DEL

200) holding that when the law so permits, a no confidence motion can be brought and the power to elect would not deem to include the power to remove by a motion of no confidence in the absence of any provision for passing such no confidence motion in the bye-laws. In short, in the judgment reported in (2011) 9 SCC 573.the Honourable Supreme Court upheld Rules 121 and 122-A of the M.P. State Bar Council Rules and held that passing of no confidence motion as per the provision of Rule 121 and 122A of M.P. State Bar Council Rules are not ultra vires. Therefore, as per the above judgment, in the absence of any provision for passing of no confidence motion in the bye-laws, the passing of no confidence motion cannot be said to be legal.

14. Nevertheless, having regard to the scope of the order of the Honourable Supreme Court made in S.L.P.(Civil) No.35135 of 2012, I am in agreement with the learned Senior Counsel Mr.M.S.Krishnan appearing for respondents 2, 3, and 5 to 9 that the Honourable Supreme Court has only directed this court to find out whether the persons who called for the meeting are eligible to call for the Extra-ordinary General Body Meeting whether they are the regular producers as per the bye-laws and according to me, the question of legality and validity of the requisition which has to be looked into as per para 3 of the order of the Honourable Supreme Court in the light of the observation made in para 1 and 2 is

only restricted to the qualification of the 50 members who have called for the meeting and this court is not expected to go into the right of the members to pass a no confidence motion as per the orders of the Honourable Supreme Court.

15. Further, in C.R.P. PD No.3991 of 2012, this court held that there is no prohibition in the bye-laws to bring no confidence motion and in the absence of any prohibition, there cannot be any bar for the Extra-ordinary General Body Meeting to discuss any agenda and the said finding has become final as S.L.P.(Civil) No.35135 of 2012 was disposed of by directing this court to find out the qualification of the 50 persons who gave the requisition and order made in C.R.P. PD No.3991 of 2012 has become final.

16. Further, if no provision is made in respect of certain matters in the bye-laws, the provision of Tamil Nadu Societies Registration Act, 1975 will apply to such matters and as per Rule 6(k) of the Tamil Nadu Societies Registration Act, 1978, removal of members and the circumstances under which members could be removed from the rules and the procedure for such removal and appeal, if any, against such removal is provided and therefore, even though in the bye-laws of the Tamil Film Producers Council, there is no provision for removal of members or for passing of no confidence motion having regard to the provision of 6(k) of the Tamil Nadu Societies Registration Act, 1978, in the absence of any provision in the bye-laws, Rule 6(k) can be incorporated and a member can be removed under the circumstances and one of the circumstances is the passing of no confidence motion and therefore, it cannot be stated that the members cannot be removed by passing no confidence motion in the Extra-ordinary General Body Meeting.

17. Therefore, I hold that as per the order of the Honourable Supreme Court, this court was only directed to find out the qualification of the members who called for Extra-ordinary General Body Meeting and according to me, having seen the list of members, the 50 persons, who called for Extra-ordinary General Body Meeting are regular producers and they are entitled to call for Extra-ordinary General Body Meeting and 21 days clear notice was given for calling for the meeting and that was also upheld by this court in C.R.P. PD No.3991 of 2012, and therefore, the meeting held on 28.10.2012 was a valid meeting and any business transacted in

the meeting cannot be challenged in this revision and the learned XI Assistant Judge has only given further direction for the counting of votes polled in the Extra-ordinary General Body Meeting in the matter of no confidence motion.

18. Further, the maintainability of the suit filed by the first respondent herein has also no relevance for disposal of the revision as in this revision as well as in C.R.P. PD No.3991 of 2012, this court was called upon to decide about the validity of the convening of Extra-ordinary General Body Meeting and therefore, even accepting the arguments of the learned Senior Counsel Mr.P.S.Raman that the suit filed by the first respondent without impleading the Tamil Nadu Film Producers Council is not maintainable, having regard to the scope of the enquiry whether the requisition of Extra-ordinary General Body Meeting is valid or not is concerned, I hold that valid notice was given by 50 eligible producers as per the provisions of bye-laws and due publication was made and as the Society failed to convene the meeting, the members who called for the meeting are entitled to convene the meeting as per the provisions of the bye-laws and also as per the provisions of Tamil Nadu Societies Registration act and hence, the holding of Extra-ordinary General Body Meeting held on 28.10.2012 is a valid one. Further, irrespective of the question regarding the maintainability of the suit without impleading the Tamil Film Producers Council, the convening of the Extra-ordinary General Body Meeting convened on 28.10.2012 cannot be questioned. Having held that the 50 persons who gave the requisition to convene such a meeting are regular producers entitled to give requisition and 21 days clear notice was given as per bye law 28 of the Council, the requisitionists are entitled to call for such a meeting when the Council failed to convene the meeting. Therefore, the convening of the meeting on 28.10.2012 by the 50 regular producers is a legal one and hence, the same cannot be challenged by the revision petitioner.

19. The arguments of the learned Senior Counsel Mr.P.S.Raman that one more opportunity be given to the members to exercise their vote by fixing any date for Extra-ordinary General Body Meeting cannot be accepted having regard to the fact that large number of members attended the Extra-ordinary General Body Meeting held on 28.10.2012 and therefore, no prejudice is caused to the Council due to the meeting held on 28.10.2012 and my above view is also supported by the judgment

reported in CDJ 201.Karnataka High Court 041 wherein the Honourable Judge of the Karnataka High Court relied upon the judgment of the Honourable Supreme Court made in K.NARASIMHIAH v. H.C.SINGRI GOWDA AND OTHERS (AIR 196.SC

330) wherein the Honourable Supreme Court held that even assuming that some of the councilors received less than three clear days notice of the meeting, that will not make the proceedings of the meeting on the resolution passed there invalid having regard to the fact that 19 out of 20 councilors attended the meeting.

20. In this case also, large number of members attended the Extra-ordinary General Body Meeting held on 28.10.2012 and therefore, the request of the learned Senior Counsel Mr.P.S.Raman that the meeting can be convened on other subsequent dates by giving sufficient time to the members to participate in the meeting cannot be accepted. The submission of the learned Senior Counsel Mr.V.T.Gopalan appearing for the first respondent that respondents 2 to 9 are not entitled to approach this court and they will have to work out their remedies by applying to the Registrar as per the provisions of the Council cannot also be accepted and the judgment reported in (2003) 3 SCC 47.relied upon by the learned Senior Counsel cannot be applied to the facts of this case. In the result, the revision is dismissed. In the circumstances of the case, there is no order as to costs. The connected miscellaneous petitions are also dismissed. 1.2.2013. Index: Yes. Internet: Yes. ssk. To 1. XI Assistant Judge, City Civil Court, Chennai.

2. The Record Keeper, V.R. Section, High Court, Chennai. R.S.RAMANATHAN, J.

Ssk. P.D. ORDER IN C.R.P.(PD) No.4258 of 2012 Delivered on 1.2.2013.

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