

IN THE CITY CIVIL COURT MADRAS
O.S.NO. OF 1974

1.G.K.Sunderam

2.V.S.Srikumar

3.V.Devanathan

...

Plaintiffs.

Versus

1.Dr.M.Santosham

2.V.Subrahmaniam

3.C.T.Rajagopal

4.Kumararaja Servai

5.P.Sundaresan.

6.Kiramar Ramamujam

...

Defendants.

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Plaint under Order VII Rule I C.P.C.

The First Plaintiff G.K.Sunderam s/o Sri G.Kuppaswamy Naidu, Hindu, aged about 60 residing at Pasakondalu, Circuit House Road, Coimbatore and is President of the Tamilnadu Swatantra Party and Treasurer of the All India Swatantra Party.

Second Plaintiff V.S.Srikumar s/o Sadasiva Iyer, Hindu, aged about 59 years residing at 8 Prasanna Vinayagar Koil Street, Purseswalkam, Madras.7. He is the Secretary of the Madras District Swatantra Party, Life Member, Worker and Member of the Tamil Nadu Parliamentary Board and at present in charge of Tamilnadu State Party Office of the Swatantra Party at No.76, Gopathy Narayanaswami Chetty Road, T.Nagar, Madras.17.

Third Plaintiff V.Devanathan, s/o Veeraraghavan Iyengar, Hindu, aged about 52 years, residing at 43-A, Thambiah Reddy Road, West Mambalam, Madras.33. He is the Member of the National General Council of the Swatantra Party, Tamil Nadu General Council, Member of the Madras District Committee of the Swatantra Party and he is also an ex-Councillor of the Madras Corporation.

The address for service of all notices and processess on the Plaintiffs is that of the Advocate Sri R.S.Venkatachari, B.Com, B.L. and R.Mangai-Mannan, Advocate, 13, Law Chambers, High Court, Madras.

The First Defendant is Dr.M.Santosham, s/o Mathuram Santhosham, Christian, aged about 51 residing at 30 Srinivasanagar, Madras.31.

The Second Defendant V.Subrahmaniam, father's name not aware, Hindu, aged about 49 years residing at 97 Swaminicken Street, Chintadripet, Madras.2.

The Third Defendant C.T.Rajagopal, father's name not known, Hindu, aged about 45 years residing at Raja Annamalaipuram, Madras-28.

Fourth Defendant Kumararaja Servai, Father's name not aware, Hindu, aged about years residing at Puraaswalkam.

Fifth Defendant P.Sundaresan, Father's name not aware, Hindu aged about 36 residing at No.4 Natesa Iyer Street, T.Nagar, Madras.17.

Sixth Defendant Kiranoor Ramamujam Father's name not aware, aged about 36 years residing at c/o V.Subramaniam, 97 Swaminaicken Street, Chintadripet, Madras.2.

Address for service of all notices and processes on the defendants are as set forth above.

II. The plaintiffs state that the Swatantra Party of which they are and the Defendants were members, is an All India National Political Party. It was founded by late Sri C.Rajagopalachari and other National Leaders of eminence like Mr.M.N.Masani, Mr.N.G.Ranga, Mr.Homi Wadia and Sri K.M. Munshi. The said organisation has got its own ideals, and objectives. The fundamental principles and programmes of the Swatantra party were decided and envisaged by the Katopza; convention held on 1st and 2nd August 1959 and the Constitution of the Swatantra Party was also amended by the National Convention held at Rajaji Nagar, Madras.3 in the year 1973 and that is the Constitution that governs the functioning, management, administration, and working of the Swatantra Party. The Plaintiffs crave leave to refer to the Constitution of the Swatantra Party as part and parcel of this plaint.

III. The Plaintiffs further submit that the Tamilnadu Swatantra Party has got on its rolls about 8000 members and the First Plaintiff is its duly elected President. The 2nd Plaintiff V.S.Srikumar is the Secretary of the Madras District Swatantra Party and is in actual control, administration, possession and management of the premises No.76, G.N.Chetty Road, Madras.17 and is in actual charge of the affairs pertaining to the organisation in the City of Madras now and the Madras District Swatantra Party office situated at 26 Halls Road, Madras.3.

The Third plaintiff Mr.V.Devanathan is a Worker of the Swatantra Party and all the above named plaintiffs are filing the suit for and on behalf of the Tamilnadu Swatantra Party in a representative character, for safeguarding the interests of all the Members of the Swatantra party and for its proper administration and control of the assets belonging to the Swatantra Party.

The Plaintiffs state that the Defendants were also Members of the

Swatantra Party till recently but they appear to have changed their allegiance to a newly formed political organisation, styled as Bharatiya Lok Dal and they appear to act under the influence of Sri Piloo Mody and Mr. Madhu Mehta erstwhile President and Vice President of the All India Swatantra Party and they appear to have acted under the so called resolution passed by the National Executive on 26th August 1974. It is further learnt and reliably understood by the Plaintiff that Sri Piloo Mody has declared for the dissolution and merger of the Swatantra Party with Bharatiya Lok Dal as if he has got authority or power and competency to do so. By a Press statement issued by Mr. Madhu Mehta in the "Indian Express" dated 29th August 1974 runs thus " On such merger no person or group of individuals shall have any right to claim to be Swatantra Party or to claim to any of its rights".

The Plaintiffs further submit that the Defendants have made a show of their attempt to the so called change over of their party leaders and themselves by trying to interfere with the Management and control of the Tamil Nadu Swatantra Party Unit by the Plaintiffs herein. They entered the premises No.76 G.N.Chetty Road, Madras.17 unauthorisedly and without any legal authority and tried to put their name board and began to hoist the Flag of Bharatiya Lok Dal despite repeated protests made by the 2nd Plaintiff and / his colleagues and Agents. They attempted to put a show of force and began to threaten the persons in occupation of the premises and said that they would carry out the orders of their leader Sri Piloo Mody and that they would not allow the functioning of the Swatantra Party of the Tamilnadu in the said premises No.76, G.N.Chetty Road, Madras.17. The plaintiffs apprehend serious interference from the Defendants and their supporters, with the normal political activities and functioning of the Swatantra Party, which as already submitted is an All India National Party.

IV. The plaintiffs state that some of the members of the Swatantra party have already filed O.S. ⁵⁵²⁶ ~~3526~~ /74 on the file of this Hon'ble Court for declaration injunction with the proposed move on the part of Sri Piloo Mody, Madhu Mehta and Dr. M. Santoshan for bringing about the dissolution of the Swatantra party as it is illegal and unconstitutional and for restraining them from carrying on any such activities, which is prejudicial to the existence of the organisation and its normal functioning. The plaintiffs are filing a copy of that plaint in O.S. 5526/74 in the City Civil Court and crave leave to refer to the same as part and parcel of this plaint.

V. The plaintiffs submit that the Tamilnadu Swatantra Party had already expressed in unequivocal and clear terms, that it is opposed to the merger with any other party or any move for bringing about for dissolution of the Swatantra party. The plaintiffs state that it is the State Unit, that is responsible for carrying out the objects and programmes of the Swatantra

Party in Tamilnadu and the control, management of Tamil Nadu Swatantra Party is vested with plaintiffs and they alone are entitled to continue the party as an independent and separate unit and distinct from the Bharatiya Lok Dal. The plaintiffs have expressed their intention to act on behalf of the Swatantra Party and have even given notice of the fact to Sri Piloo Mody and Madhu Mehta and that they have severed their connections with them and parted their own way, with the proposed move of dissolution of the Swatantra Party or merger with any new party like Bharatiya Lok Dal, which appears to have been inaugurated on 29-8-74 at New Delhi.

VI. The Plaintiffs state that whatever be the validity of otherwise of the action of Piloo Mody in declaring the dissolution of the Swatantra Party it cannot take away the right of the plaintiffs and other members of the Swatantra Party to continue the Party in the State level or to function as an independent Unit distinct and separate from Bharatiya Lok Dal. The plaintiffs state that the Swatantra Party is not only an All India National Party but also it has got its own symbol and its programme. The plaintiffs further state that the Swatantra Party has been recognised as a National Party by the Election Commission and in fact it has contested elections throughout the Union of India in the past elections, held both to the Parliament, Rajya Sabha as well as to Legislative Assemblies and Councils in several states. Therefore any disruption to the status of the Swatantra Party would create chaos and confusion and any interference by the defendants herein of the administration of the Swatantra Party and of all its assets would result in unnecessary confusion. They cannot lay claim to the assets of the Swatantra Party, having abandoned its policies and programmes and having affiliated themselves with the new party viz., Bharatiya Lok Dal and they cannot therefore claim to be members of the Swatantra Party having chosen for their ideals different than those proclaimed in the Constitution of the Swatantra Party.

VIII. The plaintiffs fear that the defendants would use physical force and would create violence and bring about disorder and disarray in the rank and file of the Swatantra Party and that would be subversive and prejudicial to carrying on the activities by members of the Swatantra Party, having their office at No.76, G.E.Chetty Road, Madras-17. The plaintiffs state that the Defendants and their supporters, stormed their entry into the party's office at 76 G.E.Chetty Road, Madras 17 at about 10 a.m. on 29th August 1974 and they wanted to forestal by their action the injunction application in O.S.No.5456 of 74 in the City Civil Court Madras which was posted for hearing on that date.

VIII. The plaintiffs submit that they are entitled to legal protection against any unlawful interference by anyone acting under the instructions of defendants or by the defendants themselves and thereby preventing the plaintiffs and other members of the Swatantra Party from carrying on their lawful activities, as members thereof or in any way interfering with their possession holding of the assets of the Swatantra Party in the State of Tamilnadu. The defendants having proclaimed in favour of the dissolution of the Swatantra Party and ascertained with contrary to Swatantra Party have no status to claim as party members and their entry of the office premises of Swatantra Party at No.76, G.N.Chetty Road, Madras.17, is wholly ~~manifest~~ unauthorized and illegal and constitutes unlawful trespass in the eye of law.

They cannot enter the office premises of the Swatantra Party and their attempt to take away its assets or interfere with the management control, supervision and attendance of the plaintiffs and other members of the Swatantra Party in their office premises. The properties are held solely for the object and programmes of the Swatantra Party and its ideals and they are maintained for the benefit of the Swatantra Party and its members. No other person can take law into their own hands and attempt to interfere with the management of the plaintiffs. The action of the defendants is therefore not only reprehensible but also deserve severe condemnation, as acting in breach of trust and with the avowed objects of the Swatantra party.

IX. The plaintiffs state that the cause of action for the suit has arisen within the jurisdiction of this court on 29-8-74 when the defendants and their subordinates and Agents and servants attempted to interfere with the management and possession and control of the office of the Swatantra party and of the maintenance of its assets.

X. The plaintiffs state that they are entitled to injunction restraining the Defendants from illegally interfering with the management, administration and control of the Swatantra party and of its assets and from any manner of interference in whatsoever manner, by the defendants or their subordinates in the administration of the Swatantra Party, or of its functioning in Tamilnadu.

XI. The plaintiffs further submit that the cause of action arise on 29-8-74 when the Defendants attempted to interfere with the management and control and possession of the Swatantra party and all its assets by the plaintiffs. The cause of action is not time barred by limitation.

XII. The plaintiffs further submit that they value their reliefs for purposes of Court Fee at Rs.400/- and pay the court fee of Rs.30.50 under Section 25 of the Tamil Nadu Court Fee and Suit Valuation Act.

XIII. Therefore, the plaintiffs pray that this Hon'ble Court may graciously be pleased to direct issue of permanent or prohibitory injunction restraining the Defendants, their subordinates, servants or Agents from interfering with the plaintiffs or their Agents, possession and control and administration of the Swatantra Party at premises No.76, G.H.Chetty Road, Madras.17, or at any other place, within the jurisdiction of this Hon'ble Court and award costs of this Suit and further grant such other proper and necessary relief as the Hon'ble Court may deem it fit and proper.

At Madras on 29th Day of August 1974.

Plaintiffs.

Verification.

We 1) C.K.Sandares, 2) V.S.Srikumar 3) V.Devanathan, do hereby declare that what is stated above are true and best of our knowledge and belief

Verified at Madras this 29th August 1974.

Counsel For Plaintiffs.

Plaintiffs.

List of Documents filed under OR.VII Rule 14(2) O.P.C.

1. Constitution of the Swatantra Party.
2. National Convention's Declaration.
3. National Executive's instructions dt. 20-8-74.
4. Press Statement of Madhu Mehta as published in the 'Indian Express ' dt. 25-8-1974.
5. Copy of the Plaint.
6. Copy of the complaint by Mr.V.S.Srikumar.

Dated at Madras this the 30th August 1974.

Counsel for Plaintiffs.

Plaintiffs.

IN THE CITY CIVIL COURT MADRAS

I A No. of 74.

In

O S.No. of 74.

1.G.K.Sunderam

2.V.S.Srikumar.

3.V.Devanathan

...

versus

... Petitioners/Plaintiffs.

Dr.M.Santhosham.

V.Subramaniam.

C.T.Rajagopal.

Kumararaja Servai.

P.Sundaresan.

Kiranoor Ramarajam. ...

... Respondents/Defendants.

AFFIDAVIT OF V.S.SRIKUMAR.

I, V.S.Srikumar, s/o Sadasiva Iyer, Hindu aged about 59 years residing at 8 Prasanna Vinayagarkoil Street, Madras-7 do hereby and sincerely affirm and state as follows.

I respectfully submit that I am the 2nd Plaintiff and the Second Petitioner herein.

I crave leave to refer to the plaint averments in the above suit as part and parcel of this Affidavit.

I submit that the Tamilnadu Swatantra Party has no connection whatsoever with the Bharatiya Lok Dal which is a new political party inaugurated on 29-8-74 at New Delhi.

I submit that no part of the assets of the Swatantra Party which is a distinct and separate National Political Party can be taken over by members owing allegiance to the Bharatiya Lok Dal merely on the basis of the so called merger of the Swatantra Party by virtue of or the pious declaration of dissolution of the Swatantra party reported to have been made.

I submit that neither a National Convention of the Swatantra Party held on 4th and 5th August 1974 nor the meeting of the National Executive held on 28-8-74 at New Delhi can legally and constitutionally bring about the dissolution of the Swatantra Party or merger of the Swatantra Party with the Bharatiya Lok Dal.

I submit that even if such resolutions have been passed they are ultra vires and cannot bind members and units of the Swatantra Party much less the Tamilnadu Swatantra Party which is totally opposed to such dissolution or merger as clearly indicated by the resolutions passed by the General Council of the Tamilnadu Swatantra party at its meetings held at Madras and Vellore on 2-6-74 and 21-7-74 respectively.

The so-called resolutions of the National Convention and the National Executive cannot ipso facto bring about the dissolution of the Swatantra party, change or transfer of ownership of its assets

to the Bharatiya Lok Dal and the continuance of the membership of the Swatantra party by those persons who are not willing and not ready to join the new political party.

The Constitution of the Swatantra Party does not permit the transfer of its assets nor its merger with other parties. The constitution of the Swatantra Party does not contemplate dissolution.

I state that the Defendants are attempting to grab at the property of the Swatantra Party and in fact hoisted the flag of the B.L.D. at the office premises of the Swatantra Party at 76, G.N.Chetty Road, T.Nager, Madras-17, yesterday. The claim made by the respondents and the press statement of Mr. Madhu Mehta that appeared in the "Indian Express" reading "On such merger no person or group of individuals shall have any right to claim to be Swatantra Party or to claim to any of its rights." are wholly illegal and unfounded. I state that the respondents attempt to enter the office of the Swatantra Party constitutes trespass. The Swatantra Party premises is intended only for the benefit of its members and for legitimate activities and objects of the Swatantra Party and cannot be put to any use by any other party or by persons who do not owe any allegiance to the Swatantra Party.

I submit that the action of the respondents in entering the premises of the Swatantra Party at 76 G.N.Chetty Road, Madras.17 and hoisting the B.L.D.Flag and also the name board of the B.L.D.Party are per se illegal and unauthorized. They are therefore liable to be restrained from carrying out the unlawful threat that they will oust the petitioners and members of the Swatantra Party and the party's office itself in the above premises.

The respondents have no title, claim or rights to the assets of the Swatantra Party or to use the premises of the Swatantra Party for the office of the Bharatiya Lok Dal. I submit that the respondents are trying to use their local influence and rowdy elements to secure their illegal entry into the premises and their unlawful attempts to use the assets of the Swatantra party for B.L.D.

I therefore pray that this Hon'ble Court may graciously be pleased to direct the issue of ~~the~~ an ad interim injunction restraining the defendants their agents, or any other member of the B.L.D. from entering the office of the Swatantra Party at 76 G.N.Chetty Road, Madras.17 or attempting to use the assets of the Swatantra Party in any manner whatsoever pending disposal of the suit and thereby render justice.

Solemnly affirmed at Madras
this the 30th day of August 1974
and signed his name in my presence.

Before me.

Identified by me

Advocate, Madras.

Counsel for Petitioner.