

(1458)

In The City Civil Court, Madras.

I. A. in O. S. No. 5526/1974.

E. Adhikesava Pillai, T. Aravamuthan,
M. Poosalingam, T. Ramanujam
V. S. Srikumar

... PLAINTIFFS

vs.

Piloo Mody, President, Swatantra Party.
Madhu Mehta, Vice President.
Acting General Secretary.
Dr. M. Santhosham, Joint Secretary,
All India Swatantra Party.

... DEFENDANTS

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

1. E. Adikesva Pillai, son of Kulasekara Pillai, aged about 72 years residing at No. 46, Thambiah Reddy Street Madras-33. He is a life worker and Executive member of Swatantra Party, Saidapet Constituency.

2. T. Aravamudhan, son of Sri Thiruvengkatachariar Hindu, aged about 49 years, carrying on business and residing at 1/25, Gengu Reddi Lane, Madras-8. He is the treasurer of Madras District Swatantra Party and a member of the Tamil Nadu General Council of Swatantra Party.

3. The third plaintiff Sri Poosalingam, son of late Munuswami, Hindu, aged about 53 years, residing at 67, Old Vazhamanagar, Otteri, Madras-12. He is a member of Tamil Nadu State Executive Committee and member of General Council and Vice President of Madras District Committee and Life Member of Swatantra Party.

4. T. Ramanujam, son of Late T. R. Veeraraghavan, Hindu, aged about 40 years, residing at 14, Second Street, Subramania Nagar, Madras-24, employed in Messrs. Gokak Patel Volkart Ltd., Madras. He is the member of executive committee, Madras District Swatantra Party.

5. Sri V. S. Srikumar, son of Sadasiva Aiyer, aged about 59 years, Businessman, Secretary, Madras District Swatantra Party and member of Tamil Nadu Parliamentary Board, Swatantra Party.

The address for service of all notices and process on the plaintiffs herewith is that of their counsel Sri R. S. Venkatachari, B. Com, B. L., at No. 13, Law Chamber, High Court Buildings, Madras-1.

The 1st defendant Shri Piloo Mody, son of late H. P. Mody, Parsi, aged about 45 years, Architect residing at No. 2, Lodi Estate, New Delhi-3. He is the President of All India Swatantra Party.

The 2nd defendant Sri Madhu Mehta, Father's name not known, Hindu, aged about 50 years, Vice-President, and Acting General Secretary of All India Swatantra Party and he resides at No. 84/A, Nepean Sea Road, Bombay 6.

The 3rd defendant Dr. M. Santhosham, son of Madhuranam Santhosham, Christian aged about 61 years, Medical Practitioner, residing at No. 30, Srinivasa Nagar, Madras-8. Joint Secretary, All India Swatantra Party.

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

III. The Plaintiffs state that they are all members of Swatantra Party, some of whom are office bearers and are holding important executive posts in the Hierarchy of Swatantra Party Organisation. They have become

members of the Swatantra Party having subscribed to its ideals and the fundamental principles, adopted at the preparatory convention of Swatantra Party held at Bombay on 1st and 2nd of August, 1959. They state that the statement of principles of Swatantra party adopted at the above convention still forms the basic principles, underlying the Constitution of the party. The Plaintiffs submit that the Constitution of Party as amended on 14th April 1973 by the Sixth National Convention in Rajajinagar, Madras, is the present Constitution of Swatantra Party and the powers of National Executive are set forth in para 12 thereof. They can take all such actions and decisions, and do all such things and acts, as they may consider, necessary or desirable in furtherance of party's objective, in para 2 of the Constitution of "Swatantra" party.

IV. The plaintiffs state that neither the National Executive nor the party's Convention can deviate from the objectives and ideals and ideologies of the party and that led to its formation and functioning as an All India Organisation. Its ideals and objectives are clearly set forth in the preparatory convention itself and as the name of the party itself signifies, the party is pledged to Social Justice and equality of opportunity for all people without distinction of religion, caste, occupation or political affiliation and the party holds that the progress welfare and happiness of people depend on individual initiative, enterprise and energy. The ethical and moral principles of social polity are emphasised and social welfare of citizens of India sought to be promoted in accordance with the democratic principles as fully set forth in the "statement of principles", which may be read as part and parcel of this plaint.

V. The Plaintiffs submit that the 1st defendant, Shri Piloo Mody became the president of the Swatantra party in or about 1971 and it appears that instead of being anxious to build up the Swatantra party, its organisation and growth and fostering up the ideals and principles that distinctly mark out "Swatantra" party, from other parties, the 1st defendant is attempting for "dissolution of the party" which is not one of the functions of the National Executive for which, it is empowered under the Constitution. The plaintiffs learn that the 1st defendant has been striving for dissolution of Swatantra party and for forming a national alternative with the object of bringing about a two party system and with that idea, is negotiating with other parties like: 1) Samyuktha Socialist party, 2) Bharathiya Kranthi Dal, 3) Lok Thanthrik Dal, 4) Utkal Congress, 5) Khetihar Dal, 6) Harijan Sangarsh Samithi to form a new party.

VI. The plaintiffs state that the 1st defendant has manifested his intention to carry out that object and he is taking steps therefor by the circular letters dated 16th April 1974, 18th May 1974 and 1st July 1974. The fifth plaintiff who is a member of Swatantra party from its inception has sent letters of protest to the 1st defendant and he has given various reasons that the dissolution of the party is wholly unwarranted and unjustified.

VII. The plaintiffs state that the 2nd defendant, Sri Madhu Mehta and the 3rd defendant Dr. M. Santhosham are actively assisting the 1st defendant in his proposal to dissolve the party and a Convention is proposed to be held on 4th and 5th August 1974. The plaintiffs also crave leave to refer to the Tamilnadu Swatantra General Council's resolution dated 2nd June 1974 and 21st July 1974 at Madras, and Vellore respectively protesting against the

proposed dissolution, as that would affect the party's existence in the national polity. The plaintiffs crave leave to refer to the resolutions passed by Tamil Nadu Swatantra General Council against proposed dissolution as part and Parcel of this plaint. The plaintiffs are filing this suit only in representative capacity and for and on behalf of the members of Tamil Nadu Swatantra party, as they are interested in maintaining the integrity, solidarity and continued existence of "Swatantra Party" to serve as a political organisation in furtherance of the political interest, for achieving the economic and social goals, for which it was founded by a National leader and pre-eminent Statesman Sri C. Rajagopalachari.

VIII. The plaintiffs submit that the dissolution of a party like Swatantra Party, which is a party recognised by Election Commission and a National party recognised even on international level is a matter of vital importance as its continued existence is very essential in the national and for public good and plaintiffs state that the proposed action of the defendants is not conducive to the interests of national welfare or of the body politic of "Swatantra" Party, i. e. since two party system is not a basic principle to the functioning of democracy or of a Republic.

IX. The plaintiffs further submit that the amendment to the Constitution envisaged under para 19 of the Constitution do not justify or support the dissolution of the party itself. The action of defendants 1 to 3 is therefore wholly unauthorised and ultravires of the Constitution. Even if any resolution is passed at the Delhi Convention on 4th and 5th August 1974, it would not bind the party or its members and it will lead to disruption amongst members of the Swatantra Party and it will

create serious trouble and affect the reputation of the Party also. The plaintiffs are interested in keeping the "Swatantra Party", its principles and its organisation in tact and that is also evident from the view of Sri M. R. Masani former president and one of its founders and architects of the party and it is shared by General elite of the Members of the Swatantra Party. The Plaintiffs state that the proposed action of dissolution will cause irreparable loss and incalculable harm and damage to the image of "Swatantra" Party both inside and outside India. The Plaintiffs state that inspite of several protests, the defendants 1 to 3 are attempting to hold a convention, disregarding the interests of party. The Plaintiffs are therefore obliged to institute the present suit for declaration and injunction against defendants 1 to 3 herein from holding or conducting any convention or attempt to pass any resolution, for the dissolution of Swatantra Party, contrary to the Constitution of the Party itself and being opposed to the dominant purpose and objectives of the Party. The Plaintiffs state that the defendants should be restrained from taking any steps for dissolution of the "Swatantra" Party. In fact the delegates to attend the Convention have not been properly elected nor it is in accordance with the Constitution of the Party to hold the Convention to discuss dissolution without the recommendations of the National Executive and approving such dissolution by the General Council.

X The Plaintiffs therefore pray that this Hon'ble Court may be pleased to hold that the action of defendants 1 to 3 in proceeding with or for the holding of convention as proposed on 4th and 5th August 1974 as per the circular notices dated 15th April 1974 and 13th May 1974 and 1st July 1974 as illegal, ultravires and unauthorised and not

binding on the members of Swatantra Party of Tamil Nadu Unit or on the Party in general as an All India Organisation.

XI. The cause of action has arisen within the jurisdiction of this Hon'ble Court, wherein the Plaintiffs have been informed about the proposed dissolution and coming to know that its Joint Secretary, the 3rd defendant is actively supporting the dissolution and also by receiving intimation from the 2nd defendant about the proposed dissolution at Madras within the jurisdiction of this Hon'ble Court.

The Plaintiffs state that the cause of action for the suit has arisen at Madras on 16th April 1974 and again on 13th May 1974 and again on 1-7-1974 by circular letter No. 317 that the proposed Convention is to be held at New Delhi intimating that it is convened for dissolution of the party. The suit claim is not barred by limitation.

XII. The Plaintiffs value the reliefs for purposes of Court fees and Jurisdiction at Rs 400/- and pay Court fees of Rs. 30-50 thereon under Tamil Nadu Court fees and suit valuation Act 1955.

The Plaintiffs therefore pray that this Hon'ble Court may be graciously pleased to declare that the proposed action of defendants 1 to 3 in attempting to bring about dissolution of Swatantra party in the manner proposed in the circular 1-7-1974 is wholly illegal and ultra vires and the proposed Convention, to be held at New Delhi on 4th and 5th August 1974 is not properly convened and that any resolution passed or adopted at such Convention would not be binding on members of Swatantra Party or on the Tamil Nadu Unit of Swatantra party.

ii) to restrain by injunction the defendants 1 to 3 from proceeding with or holding the proposed Convention or take any action on their notice of 1-7-'74 or initiate any action as threatened therein for dissolution of the Party.

iii) to grant costs of the suit.

iv) to grant such further or other reliefs and thereby render justice.

Dated at Madras this the 27th of July 1974.

COUNSEL FOR PLAINTIFFS. PLAINTIFFS

VERIFICATION

Plaintiffs do hereby declare that what is stated in the plaint para 1 to 12 are true to the best of our knowledge, and belief.

Verified at Madras this the 27th day of July, 1974.

Mr. R. S. Venkatachari
COUNSEL FOR PLAINTIFFS PLAINTIFFS.