

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2021] SGHC 126

Suit No 512 of 2019

Between

Subramaniam s/o Karupiah Thevar

... Plaintiff

And

- (1) N Anandaraja
- (2) R Magendran
- (3) Vijayalakshmi d/o Kumarasamy
- (4) Ponnabala Thevar Vijeya
- (5) Sree Maha Mariamman Temple

... Defendants

JUDGMENT

[Unincorporated Associations and Trade Unions] — [Friendly societies] —
[Disputes]

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Subramaniam s/o Karuppiah Thevar

v

N Anandaraja and others

[2021] SGHC 126

General Division of the High Court — Suit No 512 of 2019

Choo Han Teck J

8, 29 March, 20–21 April, 20 May 2021

27 May 2021

Judgment reserved.

Choo Han Teck J:

1 Two factions, each claiming to be the legitimate Management Committee of the Sree Maha Mariamman Temple (the “Temple”), ended up in this court in one of the most absurd and pointless actions to have been filed. One faction includes the plaintiff, Mr Subramaniam s/o Karuppiah Thevar (“Subramaniam”). The other faction includes the 1st to 4th defendants.

2 The events leading to the present suit are as follows. The Temple’s founder and former President, who is Subramaniam’s sister, died in December 2017. On 28 December 2017, the 1st defendant (“Anandaraja”) was appointed President of the Management Committee (the “2017 Management Committee”), and was so registered as President in the records of the Registry of Societies. Subramaniam objected to this appointment.

3 60 Temple members, including Mdm Parvathi Annanth (“Parvathi”) and Mr Sinni Suppiah (“Suppiah”), who were the Chief Executive Officer and Honorary Treasurer at the time, signed a letter on 19 March 2018 and sent it to the 2017 Management Committee demanding an Extraordinary General Meeting (“EOGM”) to “elect a fresh set of Committee Members”. Parvathi and Suppiah subsequently sent a letter to the members on 29 March 2018 stating that the Management Committee had “decided to neglect, refuse and resist the majority members’ call for an EOGM”, and that they (Parvathi and Suppiah) would be holding an EOGM on 15 April 2018 (“April 2018 EOGM”).

4 On 5 April 2018, Mr Narayanan s/o Sankunni Nair (“Narayanan”), the Temple’s Secretary at the time, sent a letter to the members on behalf of the 2017 Management Committee. The letter stated that Parvathi and Suppiah had not provided the updated membership list to the 2017 Management Committee. Instead, the 2017 Management Committee had tried to verify the members based on the membership list approved by the founder (“Amma’s List”). Based on Amma’s List, the petitioners had not crossed the 50% threshold to request an EOGM under the Temple’s constitution (the “constitution”), so the request had to be rejected. The letter also urged members not to attend the April 2018 EOGM as “it was not sanctioned by the Temple’s Management Committee”. Finally, the letter stated that the 2017 Management Committee would call for an Annual General Meeting (“AGM”) as soon as possible after full verification of membership and closing of financial accounts.

5 On 12 April 2018, the Temple’s solicitors filed Suit 366 of 2018 (“Suit 366”) seeking a declaration that Parvathi and Suppiah were not authorised to convene the April 2018 EOGM and that the April 2018 EOGM was void. The Statement of Claim also requested for Parvathi and Suppiah to

return all the books and records of the Temple, including all membership records, to the 2017 Management Committee, and for Parvathi and Suppiah to not take any further action pending the outcome of Suit 366 that may be detrimental to the Temple’s interests.

6 On 13 April 2018, Lai Siu Chiu SJ ordered that the April 2018 EOGM could proceed except for certain items in the agenda which should be adjourned to another date to be fixed. These items were to “move a vote of no-confidence to remove the Current Management Committee” and to “elect eleven (11) Committee Members for a two-year period of 2018 to 2020”.

7 At the April 2018 EOGM, Parvathi said that Anandaraja had actually been appointed as Interim Caretaker Chairman in December 2017, but he and Narayanan had falsified the meeting minutes and submitted a false declaration to the Commissioner of Charities and Registry of Societies that Anandaraja was the President. Narayanan had also issued a “letter of cessation” to Parvathi on 26 March 2018 which she refused to accept as it failed to state why she was being dismissed from her post. Finally, Parvathi said that Narayanan had not contacted her or Suppiah about the membership list. According to the minutes, it was then decided, among other things, that Narayanan was to “terminate all the legal proceedings instituted to date”. Suit 366 was eventually discontinued by the Temple’s solicitors on 17 October 2018. According to Mr Jayagobi, counsel for the defendants in the present case and for the Temple in Suit 366, this was done because Parvathi and Suppiah had not filed their defence — which seems to be an odd reason for a plaintiff to discontinue his suit.

8 On 6 August 2018, Subramaniam sent a letter to Narayanan (the “Requisition Notice”), demanding an EOGM be held in six weeks (the

“September 2018 EOGM”) to remove the 2017 Management Committee, elect a new Management Committee for 2018 to 2020, and determine the membership status of certain members. The Requisition Notice was signed by 56 members, including Subramaniam.

9 On 27 August 2018, the 2017 Management Committee sent a letter to the members addressing the Requisition Notice. The letter stated that Amma’s List was the list registered with the Registry of Societies. Based on that list, only 43.75% of members had signed the Requisition Notice, below the 50% required quorum to call an EOGM. The letter also stated that an AGM would be called within two to three months’ time “to address all issues”. Despite this letter, on 28 August 2018, Narayanan sent a notice of the September 2018 EOGM to the Temple members, and on 29 August 2018, Narayanan sent an email to Subramaniam stating that he and the Internal Auditor, Ms Elizabeth Thorarajoo (“Thorarajoo”), had verified the membership records, and that he “strongly recommend[ed] to the Management Committee to conduct the EOGM in accordance to clause 9 (e) of the Temple’s constitution”.

10 The 2017 Management Committee then sent a letter on 18 September 2018 to the members stating that the September 2018 EOGM would be cancelled as it had been scheduled without the consent or approval of the 2017 Management Committee, there was no “specific purpose or allegation”, and the membership had to be verified by external auditors. The letter also stated that “[a]ny meeting without the approval of the majority of committee members is considered illegal and is not binding and action can also be taken against those who do not follow the rules of the temple”. Finally, the letter stated “[t]he auditing will be in process and the AGM is expected to be held at the end of this

year”. This letter was signed by Narayanan and Anandaraja as the Secretary and President of the 2017 Management Committee respectively.

11 Despite this letter, Subramaniam proceeded with the September 2018 EOGM on 23 September. According to the minutes of the meeting, the 40 attendees voted to dismiss the 2017 Management Committee and elect a new Management Committee, which included Subramaniam as President (the “2018 Management Committee”). The new appointments were to take effect on 10 November 2018 if no AGM was scheduled by then. Since no AGM was scheduled by 10 November 2018, Subramaniam says the resolutions took effect from that date.

12 Subsequently, Subramaniam claims that the 1st to 4th defendants had prevented the records of the Registry of Societies and the Temple’s CorpPass records from being updated to reflect the new Management Committee, failed to effect a proper handover and continued acting as members of the Management Committee after 10 November 2018.

13 On 6 May 2019, Subramaniam’s then solicitors sent a letter of demand to Anandaraja, stating that any acts done by Anandaraja after 10 November 2018 were *ultra vires* and void, and demanding that he provide an account of everything the 2017 Management Committee had done since 10 November 2018, effect a proper handover of all relevant documents and take all necessary steps to update the records of the Registry of Societies. On 7 May 2019, Anandaraja sent a letter to the Temple members inviting them to attend an AGM on 2 June 2019 (the “June 2019 AGM”).

14 Subramaniam commenced the present suit on 22 May 2019. He seeks a declaration that the September 2018 EOGM was held in accordance with the constitution and all resolutions passed thereon were valid, a declaration that all acts done by the 1st to 4th defendants on and after 10 November 2018 in their alleged capacity as members of the Management Committee are *ultra vires*, an order that the 1st to 4th defendants take all necessary steps to update and correct the records of the Registry of Societies and the Temple’s CorpPass records, and an order that the 1st to 4th defendants hand over all documents and property of the Temple to Subramaniam.

15 On 24 May 2019, Subramaniam’s solicitors filed Summons No 2673 of 2019 (“SUM 2673”) to restrain the defendants from holding the June 2019 AGM and to maintain the list of voting members as at 10 November 2018 until the conclusion of the present suit. SUM 2673 was adjourned for mediation on 2 July 2019 by Chan Seng Onn J.

16 The June 2019 AGM proceeded and a new Management Committee (the “2019 Management Committee”), which included the 2nd to 4th defendants but not the 1st defendant, was elected for 2019 to 2021. Subramaniam did not attend the June 2019 AGM. When asked why during the trial, he said:

Like what I said earlier, we should be the ones---the members and myself, we should be the one to---to convene this AGM. We should be---rightfully, we should be the ones to convene this AGM because we were the elected ones. The members and myself, we have already conducted an AGM. And we also---and we also sent out the invitation to them but they did not turn up. And the members said, “We have invited them but why did they not turn up?” It’s not that we did not invite them. We did invite them.

17 Under the constitution, the Management Committee election takes place once every two years at an “alternate” AGM. The next election will be held this

year in June — which is next month. When counsel appeared before me on 8 March 2021, I told them that the trial was pointless since the next AGM would be held in June. I therefore suggested that the June 2021 AGM should be carried out properly, thus rendering this action unnecessary. However, counsel informed me on 29 March 2021 that they were instructed to proceed with the trial.

18 On 20 April 2021, the first day of the trial, I told the parties in open court that by the time my judgment was released, it would be almost time for the next AGM. The trial would therefore be a complete waste of time and money. I gave parties the rest of the day to resolve the matter. Unfortunately, on 21 April 2021, counsel said that parties had instructed them to proceed with the trial. The trial concluded within the day, and the final submissions were filed last week, on 20 May — a few weeks before the June 2021 AGM. It is in these unsatisfactory circumstances that I now give my decision.

19 The first issue is whether the September 2018 EOGM had been validly convened. Rule 9(e) of the constitution states:

An Extraordinary General Meeting shall be convened when the Committee considers one necessary or on receipt of a request in writing signed by fifty percent (50%) of the fully paid-up Core Life Members and Core Ordinary Members stating the purpose of the meeting. If no specific purpose or allegations are made, the Committee shall have the right not to convene the Extraordinary General Meeting. The Honorary Secretary shall convene such a meeting within six (6) weeks of receipt of the request. Notice of the Extraordinary General Meeting shall be given to all members at least two (2) weeks before the date of the Extraordinary General Meeting together with an Agenda for the meeting listing the matters to be discussed.

20 Counsel for the plaintiff, Mr Ushan Premaratne (“Mr Ushan”), argues that the rule does not require the Management Committee to evaluate the merits

of the specific reason for the EOGM and the allegations made in the Requisition Notice. Instead, the Management Committee only determines whether the Requisition Notice states a specific purpose or makes any allegations. If it does, “there is no power under the Constitution for the [Management Committee] to not convene the EOGM”. In the present case, since the Requisition Notice stated the specific purpose of the EOGM and made allegations, the 2017 Management Committee “had no basis to cancel” the September 2018 EOGM.

21 Second, under rule 9(e) the responsibility for issuing the Notice of the EOGM falls solely on the Secretary as long as he receives a request in writing signed by the requisite number of members. The constitution does not require the Secretary to consult or seek approval from the Management Committee before issuing the Notice. In this case, Narayanan did not need authorisation from the 2017 Management Committee to issue the Notice of the EOGM on 28 August 2018.

22 Mr Jayagobi submits that rule 9(e) means the Management Committee has the “sole authority to convene or not convene the EOGM”. In this case, the 2017 Management Committee had not convened the September 2018 EOGM and had sent a letter to the members on 18 September 2018 stating the EOGM was cancelled. Second, the constitution does not state that the Secretary has the authority to convene or not convene an EOGM of his own accord, and Narayanan was not authorised by the 2017 Management Committee to send out the Notice of the September 2018 EOGM on 28 August 2018.

23 In my judgment, under rule 9(e) the Management Committee has the right not to convene an EOGM if no specific purpose or allegations are made in the Requisition Notice. But that does not mean that the Management Committee

is compelled to convene an EOGM even if a specific purpose is stated or allegations are made in the Requisition Notice. The decision to convene an EOGM is at the discretion of the Management Committee. It alone bears “the sole responsibility for the management of the Temple” (Rule 6(a)). The Secretary and Temple members cannot convene an EOGM of their own accord without authorisation from the Management Committee. In this case, the September 2018 EOGM was not validly convened since the 2017 Management Committee’s approval was not obtained.

24 In any event, an EOGM is not the correct procedure for electing a new Management Committee. Rule 6(a) states that the Management Committee, consisting of 11 members, “shall be elected at alternate Annual General Meetings of members”. This means that the Management Committee is to be elected once every two years at an AGM. Temple members cannot unilaterally convene an EOGM whenever they please to vote out the Management Committee. If members are dissatisfied with the Management Committee, they can vote them out at the next election.

25 The parties also disputed the membership list at the September 2018 EOGM. The plaintiff relied on a list dated 4 August 2018, which lists 4 Core Life Members and 108 Core Ordinary Members (the “Updated Membership List”). He said during the trial that he was provided with a photocopy of the Updated Membership List by Thorarajoo. The 1st to 4th defendants rely on Amma’s List, which lists 96 members. However, as I said during the trial, neither party can prove who is a legitimate member because Narayanan and Thorarajoo were not called as witnesses to explain how they verified the membership lists in August 2018. The sensible solution is to ensure there is

proper notice of the June 2021 AGM and give everyone who wants to be a member an opportunity to register.

26 Subramaniam said during the trial that he did not attend the June 2019 AGM as he felt the 2018 Management Committee “should be the ones to convene this AGM because [they] were the elected ones”. But had he stood for election at the June 2019 AGM, this matter would have been resolved two years ago.

27 Subramaniam also reiterated his concerns during the trial about the 2017 financial report not being shared with the members and the Management Committee “running away” from the members’ questions. But his concerns are about mismanagement by the Management Committee, and not its legitimacy.

28 Finally, the Statement of Claim says that Subramaniam is bringing this action in his “personal capacity and in a representative capacity on behalf of the current management committee” of the Temple, but these other members were not named. Similarly, only four of the members of the 2017 and 2019 Management Committee have been named as defendants. If the other members of the Management Committees are not named, none of the parties can claim to represent their respective committees.

29 For the reasons set out above, I dismiss Subramaniam’s claim. I will hear the question of costs at a later date.

30 Although I am dismissing the plaintiff’s claim, the 1st to 4th defendants may not have long to celebrate since the next AGM is taking place this June. As I have repeatedly told the parties and their counsel, they should ensure that the June 2021 AGM is conducted properly to avoid similar pointless litigation in

future. This case should not have gone to trial, but parties have not been able to see the pointlessness of their action.

- Sgd -
Choo Han Teck
Judge of the High Court

Hewage Ushan Saminda Premaratne and Chai Rui Min Angela
(Withers KhattarWong LLP) for the plaintiff;
Jayagobi s/o Jayaram (Grays LLC) for the defendants.
