

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

WP(C).No. 24481 of 2013 (I)

PETITIONER(S) :

**RATHESHWAR PROPERTIES,
REPRESENTED BY THE MANAGING PARTNER, RAMAN PILLAI,
S/O.VELAYUDHAN RAMMAYYAN PILLAI,
PERMANENTLY RESIDING AT 17/552, SADANAM ROAD,
PERUNNA EAST.P.O, PIN-686 102,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER PRASANTH.R,
AGED 41 YEARS, S/O.RAMACHANDRAN PILLAI, DHANYA BHAVAN,
B.P.NAGAR, HOUSE NO.166, VILAPPIL VILLAGE,
PEYAD, THIRUVANANTHAPURAM-695 573.**

**BY ADVS.SRI.P.RAVEENDRAN PILLAI
SMT.INDIRA RAVEENDRAN**

RESPONDENT(S) :

- 1. THE DISTRICT REGISTRAR OF SOCIETIES,
OFFICE OF THE DISTRICT REGISTRAR(GENERAL) SOCIETIES,
THIRUVANANTHAPURAM- 695 001.**
- 2. THE SHYLA MANOR APARTMENT,
OWNERS ASSOCIATION, SHYLA MANOR APARTMENTS,
JAWAHAR NAGAR, KOWDIAR.P.O, THIRUVANANTHAPURAM-695 003.**
- 3. C.S.VINOD, S/O.CHANDRASEKHARAN NAIR,
PRESIDENT, SHYLA MANOR APARTMENT, OWNERS ASSOCIATION,
RESIDING AT FLAT NO.C5, SHYLA MANOR APARTMENT,
JAWAHAR NAGAR, KOWDIAR.P.O, THIRUVANANTHAPURAM-695 003.**
- 4. K.R.RADHAKRISHNAN,
SECRETARY, SHYLA MANOR APARTMENT, OWNERS ASSOCIATION,
A3, SHYLA MANOR APARTMENT, JAWAHAR NAGAR, KOWDIAR.P.O,
THIRUVANANTHAPURAM-695 003.**
- 5. DR.CHANDRAPAL,
A3, SHYLA MANOR APARTMENT, JAWAHAR NAGAR,
KOWDIAR.P.O, THIRUVANANTHAPURAM-695 003.**

**R1 BY GOVERNMENT PLEADER SRI.MANOJ.P.KUNJACHAN
R2 TO R 4 BY ADV. SRI.D.KISHORE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-07-2015, ALONG WITH W.P.(C).NO.30289 OF 2013, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.P1: TRUE COPY OF THE POWER OF ATTORNEY EXECUTED BY
THE PETITIONER DATED 03.04.2012.
- EXT.P2: TRUE COPY OF THE DOCUMENTS PRODUCED FOR
REGISTRATION AND THE BYE-LAWS OF THE SHYLA MANOR
APARTMENT OWNERS ASSOCIATION.
- EXT.P3: TRUE COPY OF THE REPRESENTATION SUBMITTED BY
THE PETITIONER THROUGH HIS POWER OF ATTORNEY HOLDER
BEFORE THE 1ST RESPONDENT.
- EXT.P4: TRUE COPY OF THE PLAINT IN O.S.NO.681 OF 2013 BEFORE
THE MUNSIFF COURT, THIRUVANANTHAPURAM DATED 24-05-2013.
- EXT.P5: TRUE COPY OF THE PLAINT IN O.S.NO.48 OF 2013 BEFORE
THE MUNSIFF COURT, THIRUVANANTHAPURAM DATED 08.12.2012.
- EXT.P6: TRUE COPY OF THE PLAINT IN O.S.NO.49 OF 2013 BEFORE
THE MUNSIFF COURT, THIRUVANANTHAPURAM DATED 08.12.2012.
- EXT.P7: TRUE COPY OF THE PLAINT IN O.S.NO.57 OF 2013 BEFORE
THE MUNSIFF COURT, THIRUVANANTHAPURAM DATED 11.01.2013.
- EXT.P8: TRUE COPY OF THE TRANSLATED VERSION OF BYE-LAWS.
- EXT.P9: TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT
DATED 28-09.2013.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J.

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**W.P.(C) No.24481 of 2013 - I
& 30289 of 2013 - I**

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Dated this the 17th day of July, 2015

J U D G M E N T

The petitioners in both the writ petitions challenge the very same order of the District Registrar General, Trivandrum bearing No. M1-3954/13, dated 28.09.2013. The impugned orders are produced respectively as Exts.P9 and P4 in the writ petitions. The respective petitioners are the contesting respondents in the other writ petition. None appears for both the petitioners.

2. I have heard the learned Government Pleader in the matter.

3. The parties are referred to as they are found in W.P.(C) No.24481 of 2013. The 2nd respondent is a Society registered under the Travancore Cochin Literacy Scientific and Charitable Societies Registration Act 1955 (for brevity, 'the Act of

1955). The 2nd respondent is also said to have initiated civil proceedings against the petitioner. The petitioner's contention is that the registration under the Act of 1955 is improper and in violation of the provisions of that Act. If at all an apartment owner could get registration that would only be under the Kerala Apartment Ownership Act, 1983 (Act of 1963). At the out set this Court is not convinced that the said contention can be up held and there can be found no prohibition under the Act of 1995.

4. In any event, Ext.P9 only states that the petitioner would have to take the appropriate remedies under Section 25 of the Act of 1955 and approach a Court of law. There can be no fault found on such direction. The 2nd respondent in the other writ petition seeks expunging of remarks in Ext.P9. If proceedings are taken before a Civil Court, the remarks of the District Registrar are of no avail.

5. The Kerala Apartment Ownership Act, 1983 is an

Act providing for ownership for individual apartments in a building and in making such apartment heritable and transferable property. It does not deal with any registration of societies of apartment owners but only speaks of the necessity to have By-laws (Section 16) for administration of every such common properties and the constitution of a Managing Committee. That could definitely be a Society as registered under the Act of 1955, the By-laws of which could be filed under Section 16 of the Act of 1983. This Court also does not find any reason to interfere with the findings of the Registrar nor could any purpose be served in expunging any remark in the impugned order.

In such circumstance, both the writ petitions are dismissed.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //
P.A to Judge.