

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2016

CORAM:

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.31536 of 2016

V.G.Selvaraja

... Petitioner

Versus

1.The Inspector General of Registration
Santhome High road
Chennai-28.

2.The District Registrar (Admin.)
Central Madras
No.182, Bharathi Salai
Royapettah
Chennai-600 014.

3.Chitra Avenue Flat Owners
Welfare Association
(Regn. No.217 of 2003)
Chitra Avenue, Jayam Block Basement
No.9, Choolaimedu high road
Chennai-600 094.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, to direct the first respondent to dispose of the appeal dated 16.07.2016 filed against the orders of the second respondent in Mu.Mu.No.4996/E1/2016 dated 26.04.2016.

For Petitioner : Mr.S.Kamadevan

For Respondents 1 and 2 : Mr.A.Kumar
Special Govt. Pleader

ORDER

The present writ petition has been filed by the petitioner seeking a direction to the first respondent to dispose of the appeal dated 16.07.2016 filed against the orders of the second respondent in Mu.Mu.No.4996/E1/2016 dated 26.04.2016.

2.According to the petitioner, the land situate at Puliyur village, Sowrastra nagar, Egmore-Nungambakkam Taluk, Choolaimedu, Chennai-94 (now named as Chitra Avenue) measuring an extent more than 55 grounds originally belong to M/S.Loyola

College, Chennai-34. The Rector of the college entered joint venture with the Chitra constructions Private Ltd. for the construction of the multi storied residential flats. For this purpose, a promoter acted as General Power Agent of the said college and obtained planning permission from the CMDA in the year 2000. But the promoter made constructions by violating the sanctioned plan.

3.Learned counsel for the petitioner submitted that the petitioner has purchased a flat, which is in the approved area of the CMDA. In order to look after the welfare and other requirements of the residents, the third respondent association has been formed. On 08.04.2007, a new set of office bearers headed by one Moorthy, who is living in the unapproved area of the Sruthi Block, started to discharge their functions. As per amended by-laws, their term of office expired on 07.04.2008, but no fresh election was conducted for the said Association till date. One of the permanent members of the third respondent filed a suit in O.S.No.4645 of 2009 before the City Civil Court, Chennai, to conduct elections in accordance with the amended by-laws after enumerating the member list. After contest, the suit was decreed on 30.07.2010 with a direction to conduct election within two months. But till date, the said direction could not be carried out.

4.Now the third respondent association is under the control and management of the Administrator appointed by this Court who assumed office as early as on 25.04.2015. Though there was a direction by this Court to conduct the elections to the third respondent association as early as possible, the Administrator is unable to do so, as there are no records and also it has become defunct. The petitioner and other flat owners, who are the purchasers of the CMDA approved flats, wanted to safeguard their property rights and welfare of the residents intended to form an association exclusively consist of approved flats owners. They wanted to support the action taken by the CMDA against unauthorised constructions to give a quietus to the issue. The present association by the CMDA approved flat owners is being now formed and named as "Chitra Residential Approved Flat Owners Association" and submitted application for registration. But the same has not been registered on the ground that the third respondent association is already functioning in the same premises. The action of the second respondent in rejecting the request for registration is without any application of mind and not adverting to the facts of the case. As already stated that the third respondent association was registered on 16.07.2003, but there is no association in the eye of law as on today, as the same is not functioning in accordance with the law for more than 13 years. Challenging the orders passed by the second respondent, the petitioner filed statutory appeal before the first respondent as early as on 16.07.2016.

But the same has not been taken up for hearing till date. Hence, the petitioner has filed the writ petition seeking early disposal of the appeal now pending with the first respondent.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 and 2.

6. Considering the limited scope of prayer sought for in the writ petition and also taking into consideration of the fact that the petitioner has only sought for early disposal of the appeal, the first respondent is directed to dispose the appeal within a period of four months from the date of receipt of a copy of this order, after giving notice to the third respondent.

7. With the above direction, the present writ petition is disposed of. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Inspector General of Registration
Santhome High road
Chennai-28.

2. The District Registrar (Admin.)
Central Madras
No.182, Bharathi Salai
Royapettah
Chennai-600 014.

+1 cc to Government Pleader sr57228, 57334
+1 cc to Mr.S.Kamadevan Advocate 57160

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