

\* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

+ C.R.P.No.3863 of 2017

% Date: 28-08-2017

# Between:

Venkata Sai Plaza Flat Owners Association,  
Gudiwada, rep. by its Secretary,  
Challagulla Subramanyeswara Rao, S/o. Venkanna,  
R/o. Flat No.4D, D.No.15/191, Venkata Sai Plaza,  
Satyanarayanapuram, Gudiwada, Krishna District.

... Petitioner

And

1. Sri Venkata Sai Plaza Owners Welfare Associates rep. by its President Velagapudi Sesharatnam, W/o. Purnachandra Rao, R/o. Flat No.401-4A, Venkata Sai Plaza, Satyanarayanapuram, Gudiwada, Krishna District.
2. Velagapudi Sesha Ratnam, W/o. Purnachandra Rao, R/o. Flat No.401-4A, Venkata Sai Plaza, Satyanarayanapuram, Gudiwada, Krishna District.
3. Dronadula Jaya Lakshmi W/o. Dronadula Siva, R/o. Flat No.3B, Venkata Sai Plaza, Satyanarayanapuram, Gudiwada, Krishna District.
4. Bezwada Rama Rao S/o. Venkateswara Rao, R/o. Flat No.4B, Venkata Sai Plaza, Satyanarayanapuram, Gudiwada, Krishna District.
5. The Registrar of Societies cum District Registrar, Machilipatnam, Krishna District.

... Respondent

! Counsel for the appellant : Mr. Y. Ramatirtha

^ Counsel for Respondent :

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> HEAD NOTE:

? Cases referred

## THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

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## ORDER:

Aggrieved by a judicial order passed by the Principal District Judge, Machilipatnam directing the return of original petition filed under Section 23 of the A.P. Societies Registration Act, 2001, a society has come up with the above revision petition.

2. The petitioner herein is a society registered under the A.P. Societies Registration Act, 2001, hereinafter called 'the Act'. What has happened is that a few members of the petitioner-association have started a rival association and got the same registered with the Registrar of Societies, with a small change in the name. The newly registered society is the 1<sup>st</sup> respondent herein. The petitioners 2 to 4 are conceived as the black sheep among the members of the petitioner association. The 5<sup>th</sup> respondent is the Registrar of Societies.

3. The reliefs sought in the O.P. filed by the petitioner under Section 23 are as follows:

- i) "By declaring the registration of respondent No.1 association by respondent No.5 is as illegal, not valid and is contrary to law;
- ii) To direct the respondent No.5 to cancel the registration of respondent No.1 Association;
- iii) To declare the memberships of Respondents 2 to 4 in the Respondent No.1 association is illegal and contrary to law;
- iv) Restraining respondents 2 to 4 from ever participating into the activities of respondent No.1 Association which are contrary to the activities and interest of petitioner association.
- v) Award costs of this petition,"

4. Considering the nature of the reliefs prayed, the District Judge thought that a petition under Section 23 is not maintainable. Therefore,

he directed the return of the petition to the petitioner for presentation in a proper form to the proper Court.

5. The grievance of the petitioner is that unless an amalgamation or division of societies had taken place under Section 21 of the Act, the dispute raised in the O.P. should be treated as one falling within the scope of Section 23 of the Act. Section 23 of the Act reads as follows:

“Section 23: Dispute regarding management:- In the event of any dispute arising among the Committee or the members of the society, in respect of any matter relating to the affairs of the society, any member of the society may proceed with the dispute under the provisions of the Arbitration and Conciliation Act, 1996, or may file an application in the District Court concerned and the said Court shall after necessary inquiry pass such order as it may deem fit.”

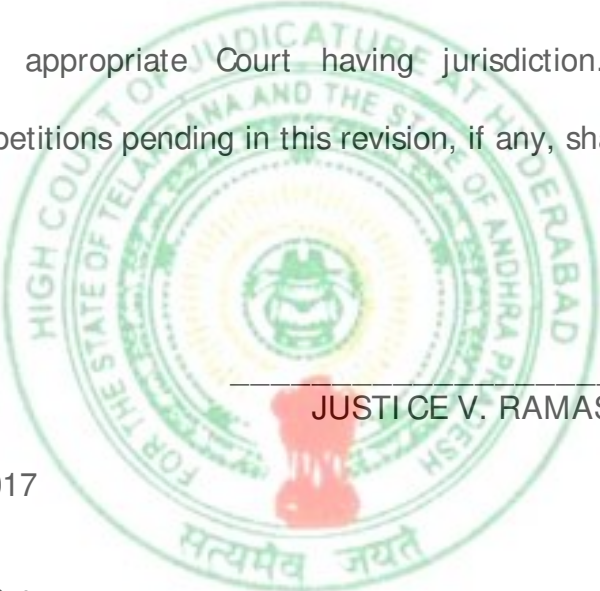
6. But unfortunately for the petitioner, the provisions of Section 23 merely provide for a mechanism for the resolution of disputes among the members within the society. Once a few members go out of the society and create a rival society and the registration of such society is challenged, the dispute may go beyond the scope of what is provided in Section 23.

7. The above proposition can be demonstrated with an example. A society or association of persons need not necessarily be registered only under the A.P. Societies Registration Act. It can also be registered as a non-profit society under Section 25 of the Companies Act, 1956. Once a group of persons, who are members of a society floats a rival society and gets the same registered under Section 25 of the Companies Act, 1956, the same can also be challenged under Section 23, if the reasoning adapted by the petitioner is to be accepted. If that is so, the Registrar of

Companies would necessarily be a party and he would be roped into a dispute under Section 23. This is simply not possible.

8. In cases of this nature where another society is floated, by the members of one society, the floating of such society and the registration of the same can be challenged only in a suit instituted before the appropriate Court. A dispute of this nature, where the dispute has given birth to another independent legal entity, cannot be resolved under Section 23.

9. Hence, the civil revision petition is dismissed. The petitioner may take the return of the O.P., convert the same into a suit and present it before the appropriate Court having jurisdiction. As a sequel, miscellaneous petitions pending in this revision, if any, shall stand closed.



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JUSTICE V. RAMASUBRAMANIAN

28<sup>th</sup> August, 2017  
Js.

Note: issue C.C. tomorrow.

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