

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :10.08.2018
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.10963 of 2017
and
WMP No.11933 of 2017

T.N.H.B.80 HIG (Block I to M) Apartments
Owners Welfare Association,
Rep.by its President,
A Registered society having Reg.No.223/2016,
No.2, M-Block, T.N.H.B.80,
HIG Flats Complex,
Kamarajar Salai, Mathur M.M.D.A,
Chennai-600068.

... Petitioner

.Vs.

- 1.State of Tamilnadu,
Represented by the Secretary,
Housing and Urban Development Department,
Government of Tamilnadu,
Secretariat, Chennai-9.
- 2.The Tamil Nadu Housing Board,
Rep.by its Managing Director,
Nandanam, Chennai-600 035.
- 3.The Executive Engineer & ADO,
Anna Nagar Division,
Tamil Nadu Housing Board,
Thirumangalam Shopping Complex,
Anna Nagar West Extn, Chennai-600 101.
- 4.Lake View HIG Apartments Welfare Association,
Mathur,
Represented by its Secretary,
A registered Society having Reg.No.224/2005,
Kamarajar Salai,
Mathur MMDA,
Chennai-600 068.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the second and third respondents to hand over the maintenance of Blocks I to M 80 HIG Madhavaram Scheme to the petitioner association.

For Petitioner : Mr.Manoj Sreevalsan

For Respondents: Mrs.M.latha, for R1
Government Advocate
Mr.V.Anandhamurthy, for R 2 & 3
Mr.R.Ilanchezhian, for R 4

O R D E R

The relief sought for in this writ petition is for a direction to the second and third respondents to hand over the maintenance of Blocks I to M 80 HIG Madhavaram Scheme to the petitioner association.

2.The petitioner association is a registered association under the provisions of the Tamil Nadu Societies Registration Act. The members of the petitioner Association are residing in 5 blocks of 16 houses each being block Nos. I to M located facing the Kamarajar Salai, Mathur M.M.D.A., Chennai-600 068. Totally 80 apartments are available in block Nos.I to M. The flats were allotted and sold by the third respondent to the members of the petitioner association under the 80 HIG Madhavaram Scheme. Out of 80 flats, the third respondent has sold only 65 flats and the remaining are yet to be sold. The entire construction activities were completed and the flats are ready for occupation and already 65 members of the petitioner association are residing in blocks I to M. The respondents 2 and 3 are not maintaining the blocks properly in view of the fact that they have got a larger extent of area for their maintenance and the residents of blocks I to M have constituted an Association which is registered under the provision of the Tamil Nadu Registration Act. Even as per the terms and conditions stipulated in the sale deed executed by Tamil Nadu Housing Board, after the completion of buildings in all respects, the residents should form an association for the purpose of maintaining the common areas and the new houses. Thus, it is made clear that after concluding the project, the housing board has to handover the maintenance to the respective residents association formed in accordance with law. Admittedly, the petitioner association is already registered and 65 residents, who all are residing in blocks I to M are the members of the association. This being the factum of the case, the respondents 2 and 3 are liable to handover the maintenance activities to the association enabling them to continue the same in accordance with the terms and conditions in the sale deed.

3.The apprehension raised on behalf of the respondents 2 and 3 are that if the maintenance is handed over to the writ petitioner in respect of the flats I to M, they may attempt to put fencing in respect of the blocks which is prohibited as per

the terms and conditions of the sale deed. Thus it is made clear that the writ petitioner cannot alter the existing common path way, common areas and the roads which are all meant for the usage of all the residents including the other blocks viz., A to H. At the outset, the writ petitioner cannot alter the common areas or tamper with the common amenities which are all provided for the usage of all the residents of the entire scheme/project. However, the maintenance in respect of blocks I to M must be carried out along with the 4th respondent association, so as to ensure that all the residents are not affected from and out of the activities of these two associations viz., the petitioner as well as the 4th respondent. After all the residents association are functioning for the welfare of the residents of the project/scheme. Thus, the writ petitioner association and the 4th respondent association shall carry out the work in respect of the maintenance of common areas, and accordingly, maintain the entire area as per the terms and conditions stipulated by the Tamil Nadu Housing Board in the sale deed as well as in the regulations.

4. In this view of the matter, the respondents 2 and 3 are directed to handover the maintenance to the writ petitioner association in respect of block I to M, and the 4th respondent is permitted to maintain the other blocks allotted to them as per the order of the Housing Board, and the writ petitioner as well as the 4th respondent are permitted to jointly maintain the common area/amenities provided for both the blocks. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

kp

To

1.State of Tamilnadu,
Represented by the Secretary,
Housing and Urban Development Department,
Government of Tamilnadu,
Secretariat, Chennai-9.

WEB COPY

2.The Tamil Nadu Housing Board,
Rep.by its Managing Director,
Nandanam, Chennai-600 035.

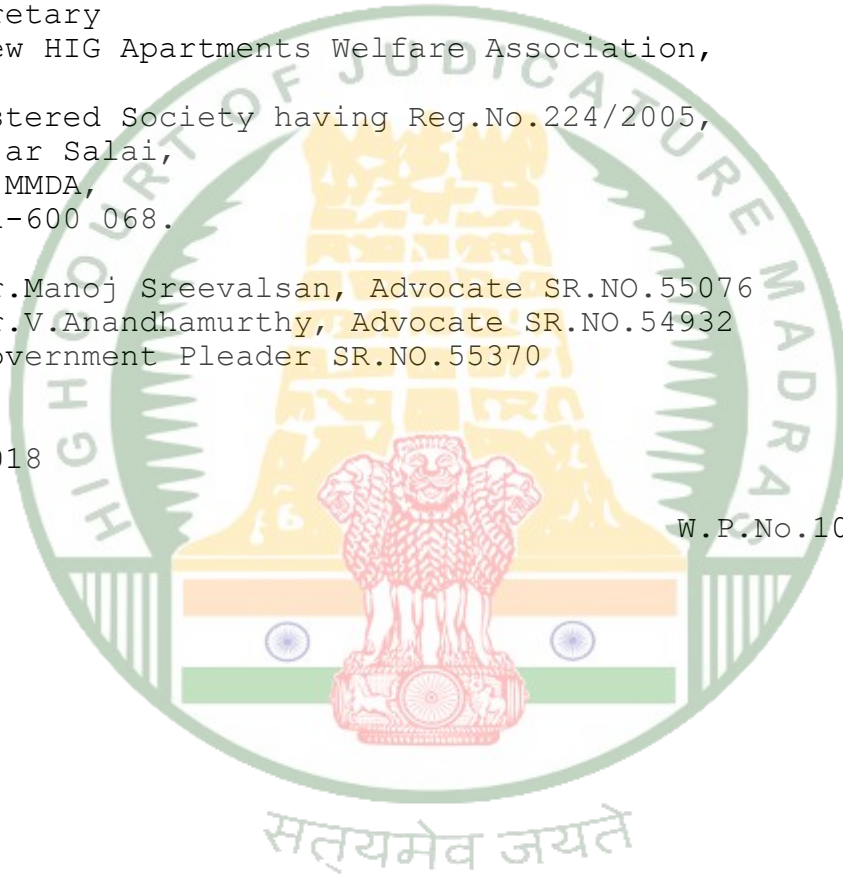
3.The Executive Engineer & ADO,
Anna Nagar Division,
Tamil Nadu Housing Board,
Thirumangalam Shopping Complex,
Anna Nagar West Extn, Chennai-600 101.

4.The Secretary
Lake View HIG Apartments Welfare Association,
Mathur,
A registered Society having Reg.No.224/2005,
Kamarajar Salai,
Mathur MMDA,
Chennai-600 068.

+1cc to Mr.Manoj Sreevalsan, Advocate SR.NO.55076
+1cc to Mr.V.Anandhamurthy, Advocate SR.NO.54932
+1cc to Government Pleader SR.NO.55370

EV(CO)
sm:31.8.2018

W.P.No.10963 of 2017



WEB COPY