

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22-07-2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.21399 of 2019

Olympia Grande Apartment Owners' Welfare
Association, Registration No.569/2016,
Represented by its President Dr.H.Narayanamurthi,
#328, GST Road,
Pallavaram,
Chennai-600 043.

..Petitioner
vs.

1.The Commissioner,
Pallavaram Municipality Office,
III Main Road,
Pallavaram New Colony,
Chrompet,
Chennai-44.

2.The District Collector,
Kancheepuram District,
Thaiyarkulam,
Kancheepuram-631 501.

3.The Managing Director,
KSM Nirman Private Limited,
No.1, SIDCO Industrial Estate,
Guindy,
Chennai-600 032.

.. Respondents

Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of a Writ of
Certiorarified Mandamus, calling for records of the first
respondent in NA/KA/No.525/2017/A1 dated 7.12.2017 and to quash
the same and to direct the first respondent to issue property
tax assessment to owners of flats in Olympia Grande Colony
situated at #328, GST Road, Pallavaram from the date of their
occupation of their respective flats and to provide for drinking
water connection, garbage removal and other civic amenities
without insisting for pending tax arrears on land pending
between the first respondent and land owner.

For Petitioner : Ms.C.Harini

For Respondent-1 : Mr.P.Srinivas,
Standing
Counsel.

For Respondent-2 : Mr.R.P.Pratap
Singh,
Government Advocate.

ORDER

Ms.C.Harini, learned counsel on record for writ petitioner is before this Court.

2. Mr.P.Srinivas, learned Standing Counsel, who has accepted notice on behalf of first respondent and Mr.R.P.Pratap Singh, learned Government Advocate, who has accepted notice on behalf of second respondent, are before this Court.

3. This Court is informed that third respondent is the original owner and promoter of the property. This writ petition pertains to property tax levy and therefore, the third respondent is only a formal party.

4. Therefore, with the consent of the aforesaid three learned counsel, main writ petition itself is taken up for disposal, heard out and is being disposed of.

5. The entire matter turns on a very narrow compass.

6. The respondent-Municipality, namely, Pallavaram Municipality, Chrompet, Chennai-44 has issued notices pertaining to property tax for 721 (Seven Hundred and Twenty One) apartments, which is the subject matter of instant writ petition.

7. From the case-file placed before this Court, it comes to light that the writ petitioner is registered as a Society under The Tamil Nadu Societies Registration Act, 1975 (Tamil Nadu Act 27 of 1975) and the Registration Number is 569/2016.

8. To be noted, the Certificate of Registration issued by Jurisdictional Registrar concerned, being Certificate dated 23.11.2016 is also placed before this Court as part of case-file.

9. Learned counsel for writ petitioner submits that aforesaid Society, namely, Olympia Grande Apartment Owners' Welfare Association have filed instant writ petition espousing the cause of the aforesaid 721 property owners.

10. A Hon'ble Division Bench of this Court has rendered

two judgments in this regard. One is Formation of Indian Network Marketing Association Vs. M/s.Apple FMCG Marketing Pvt. Ltd. and others reported in 2005 Writ L.R. 321 and the other is Tamilaga Asiriyar Koottani Vs. The Government of Tamil Nadu and 19 others reported in 2005 Writ L.R. 389. The most relevant paragraphs in Apple FMCG Marketing Pvt. Ltd. case are paragraphs 4, 5, 6 and concluding paragraph 14 which read as follows :

"4. The writ petitioner has not filed this appeal. Instead, it has been filed by an Association which claims to have been formed to redress the grievances of its members which are companies involved in the marketing of products and services using the medium of Multi Level Marketing, otherwise called Net Work Marketing. The association has alleged that it is registered as a society under the Tamil Nadu Societies Registration Act.

5. In our opinion, this writ appeal is not maintainable as the appellant cannot have any personal grievance in the matter, and at best only its members can have any grievance.

6. It is well settled that ordinarily a writ petition or writ appeal can only be filed by someone who is personally aggrieved.

14. In our view, the appellant in this case has no grievance in the matter. At best, its members could have a grievance. It cannot be said that the members of the appellant - association are so poor that they could not individually file writ appeals. It is also not a case of the nature of environmental pollution or some great hardship caused to the public at large or a disadvantaged section of it (like prisoners, exploited women, children, etc.) regarding which Public Interest Litigation has been permitted by the Supreme Court. Hence, in our considered view, this writ appeal is not maintainable, as the appellant has no locus standi. Accordingly, this writ appeal is dismissed. No costs. Consequently, connected W.A.M.Ps. are also dismissed."

11. Subsequently, referring to Apple FMCG Marketing Pvt. Ltd., Tamilaga Asiriyar Koottani case was rendered.

12. In both these judgments, a long line of authorities pertaining to locus standi qua Article 226 have been alluded to. Without burdening this order and making it verbose

by referring to the long line of authorities, suffice to extract concluding paragraph 15 of Tamilaga Asiriyar Koottani case, which reads as follows :

"15. In our opinion, if any educational institution or Head Master or Teacher is aggrieved by the impugned G.O.Ms.No.13 dated 9.2.2005 they can file a writ petition in this Court challenging the same, but the appellant - association had no locus standi in the matter. It cannot be said that the educational institutions or Head Masters are so poor that they are unable to approach this Court. If any particular educational institution or Head Master has a grievance against the impugned G.O.Ms.No.13 dated 9.2.2005 it is for such person to file a writ petition or writ appeal, and not for any association. The writ appeal is dismissed on the ground of lack of locus standi. The writ petition is dismissed for the same reason. W.A.M.P.No.1384 of 2005 is dismissed."

13. To be noted, in paragraph 4 of Apple FMCG Marketing Pvt. Ltd. case, it has been clearly set out that the petitioner in that case had also claimed to be a registered society, registered under the Tamil Nadu Societies Registration Act.

14. In the aforesaid undisputed obtaining legal position, this writ petition is dismissed as not maintainable leaving all questions open.

15. To be noted, all questions are left open as the dismissal of this writ petition should not impede the rights of the individual members of the petitioner society to seek legal remedy.

16. This writ petition is dismissed as not maintainable with the above observation. However, liberty of the individual members to file individual writ petitions or seek other legal remedy available to them is preserved. However, there shall be no order as to costs.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

Svn

To

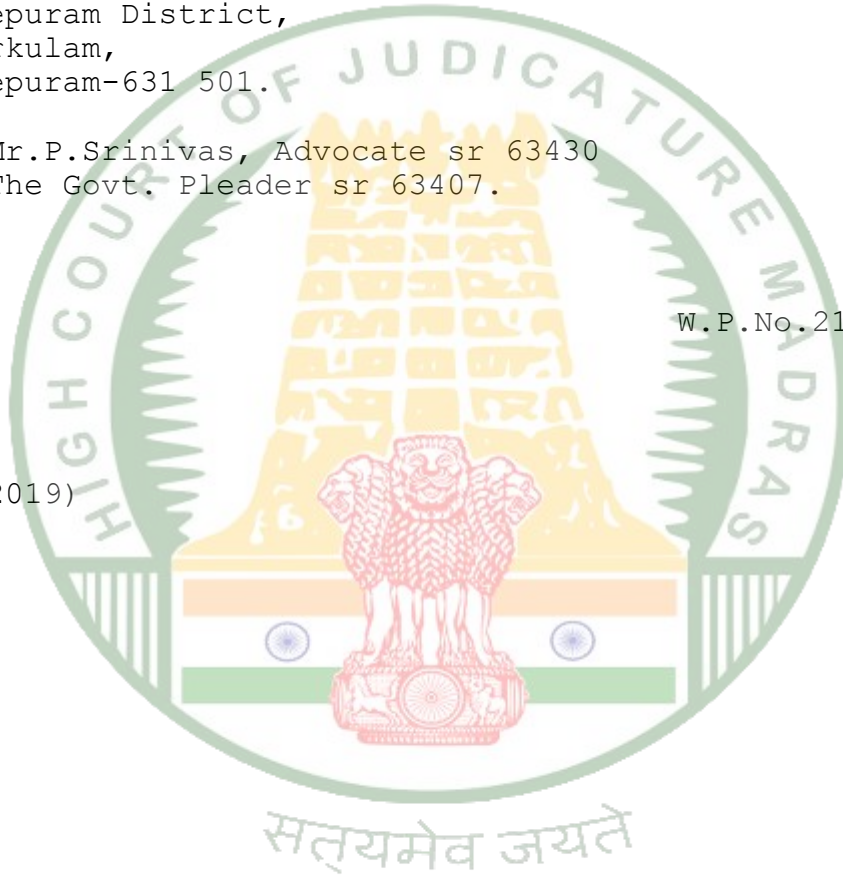
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+1 CC to Mr.P.Srinivas, Advocate sr 63430
+1 CC to The Govt. Pleader sr 63407.

W.P.No.21399 of 2019

NRL (CO)
SP (16/08/2019)



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