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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.04.2020

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THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P.No.7452 of 2020

and

W.M.P.Nos.8901 to 8905 of 2020

M/s.Amarprakash TRC Residents Association (ATRCRA),
Rep by its Secretary, Mr.K.Santhosh Kumar,
The Royal Castle, No.92, Thirumudivakkam Main Road,
Thirumudivakkam,
Chennai-600 044.

.. Petitioner

Vs.

1.The Inspector General of Registration,
Santhome, Chennai.

2.The District Registrar (Administration)-
Cum-Registrar of Societies,
South Chennai District, Chennai-600 014.

3.Sub-Registrar of Chit & Societies,
South Chennai.

4.Amarprakash Developers Pvt. Ltd.,
Rep by its Secretary,
No.412/7, GST Road,
Chrompet, Chennai-600 044.

5.The Royal Castle Owner's Welfare Association,
Rep by its Secretary, The Royal Castle,
No.92, Thirumudivakkam Main Road,
Thirumudivakkam,
Chennai-600 044.

6.HDFC Bank,
Rep by its Manager,
Arumbakkam Branch,
No.154, Chozha Rajendra,
Inner Ring Road,
Chennai-600 106.

7.The Inspector of Police,
T-13, Kundrathur Police Station

.. Respondents

This Writ Petition has been filed under Article 226 of the
<https://hcservices.ecourts.gov.in/hcservices/> of India seeking to issue a Writ of



Certiorarified mandamus to call for the entire records of the second respondent, quash the impugned order passed by the second respondent's order dated 18.03.2020 in Order No.16787/E2/2017 and consequently direct second respondent to order restoration of the registration of the petitioner association, viz., registration No.515 of 2017 and to pass such further or other order or orders as this Court may deem fit and proper under such circumstances of this case and thus render justice.

For Petitioner : Mr.N.Sivaprakash

For Respondents: Mr.T.M.Papaiah,
Special Government Pleader
for RR1 to 3
Mr.P.Dineshkumar
for Mr.D.Ravichandran for R-4
Mr.C.Mohan of M/s.King & Patridge
for R-6
Mr.Kritika Kamal,
Government Advocate (Crl.Side)
for R-7

ORDER

Instant writ petition was filed on 08.04.2020 and moved by way of a web hearing on a video conferencing platform on 09.04.2020 before my learned Predecessor Hon'ble Judge and the proceedings made by Hon'ble Predecessor Judge on 09.04.2020 reads as follows :

'Heard the learned counsel for the Petitioner (Phone No.98409-98203).

2.Mr.T.M.Pappiah, learned Special Government Pleader (Mobile No.94443-69569) takes notice for R1 to R3.

3.The Petitioner is permitted to serve notice on R4 to R6 and the Standing Counsel for R6 either through WhatsApp or Email, returnable by 20.04.2020. The Petitioner is also permitted to serve notice on Ms.Krithika Kamal, learned Government Advocate (Crl.Side) for R7. The petitioner shall also forward the pleadings, documents, typedset of papers, etc, to the respondents and counsel for the respondents.

3.List this matter on 20.04.2020.

x x x x x

Note to Registry :

Registry is directed to either host the above order in the High Court Website [or] forward a Photostat copy of the above order without the signature of the Hon'ble Judge through WhatsApp to the concerned parties.'



2 Thereafter, the Registry on 20.04.2020 afternoon has forwarded to court, a email dated 20.04.2020 from learned counsel for writ petitioner. This was the first time I came to know about this matter. Be that as it may, even when this electronic mail from the counsel for writ petitioner was forwarded to me, there were no attachments. To be noted, the case file was not circulated to me either by way of soft copies or as hard copies. Thereafter, case file (hard copies) were circulated to me yesterday and web hearing was fixed today. In the web hearing today, it was pointed out that the statement said to have been made by the Registry that matters are not being taken up is incorrect. While learned counsel for writ petitioner reiterates that he did make a telephone call to the Registry and that he was given such a reply, the same is denied by the Registry. However, considering the present unprecedented and unusual situation which shall be referred to as 'Covid 19 situation' for clarity, I allow the matter to rest there in this order.

3 Today, after the case file was circulated and after I was informed that all the seven respondents have been duly served (pursuant to 09.04.2020 proceedings of learned Predecessor Judge), a web hearing on video conferencing platform was permitted as mentioned supra. Mr.N.Sivaprakash, learned counsel for writ petitioner, Mr.T.M.Papaiah, learned Special Government Pleader for Respondents 1 to 3, Mr.P.Dineshkumar, learned counsel representing Mr.D.Ravichandran, learned counsel on behalf of 4th respondent, Mr.C.Mohan, learned counsel of M/s.King & Patridge on behalf of 6th respondent and Ms.Kritika Kamal, learned Government Advocate (Criminal Side) on behalf of 7th respondent are before me in the web hearing.

4 As far as 5th respondent is concerned, this court is informed by learned counsel for writ petitioner and the Registry that 5th respondent has been duly served as per 09.04.2020 proceedings of learned Predecessor Judge. Though scheduled hearing as per earlier proceedings was 20.04.2020, I am informed that 5th respondent has not responded to the notice either to writ petitioner counsel or to the Registry. However, from the trajectory of the hearing today, as it comes to light that this main writ petition itself can be disposed of by an order which is not in any manner prejudicial or adverse to the rights of the 5th respondent, inter-alia by making adequate safeguards and putting in place safety valves to protect / preserve the rights and contentions of 5th respondent, the main writ petition itself is taken up, heard out and is being disposed of with the consent of all aforesaid counsel, who are before me in the web hearing.

5 Considering the trajectory today, it may not be necessary to dilate much on facts. Suffice to say that the issue is between two residents welfare associations which go



by the name 'Amarprakash TRC Residents Association' ('ATRCRA' for the sake of brevity) and 'The Royal Castle Owner's Welfare Association' ('TRCOWA' for the sake of brevity). Both ATRCRA and TRCOWA are registered societies under 'The Tamil Nadu Societies Registration Act, 1975' ('said Act' for the sake of brevity and clarity) with registration No.324/2016 for TRCOWA (5th respondent) and 515/2017 for ATRCRA (writ petitioner).

6 On certain complaints, the second respondent made an order dated 31.12.2018 bearing reference Moo.Mu.16787/E2/2017, inter-alia canceling the registration of writ petitioner ATRCRA. This was carried in appeal (by ATRCRA) to first respondent and first respondent remanded the matter back to second respondent. Post remand, second respondent took up the matter, conducted a spot inspection besides embarking upon an elaborate enquiry and passed an order dated 18.03.2020 bearing reference No.16787/E2/2017 (hereinafter 'impugned order' for the sake of brevity and clarity). Vide impugned order, second respondent reiterated the operative portion of aforementioned earlier order dated 31.12.2018 and had given some directions.

7 Assailing the impugned order made by second respondent, writ petitioner has laid the instant writ petition which has taken the trajectory which has been set out supra.

8 Suffice to say that the crux and gravamen of the entire dispute is a tussle between ATRCRA and TRCOWA for maintaining residential apartments which are large in number and situate in several blocks.

9 What is of utmost significance in the hearing today is the one averment made in the affidavit filed in support of the writ petition, i.e., writ affidavit contained in paragraph 15 at page No.5 which reads as follows :

'15.I am advised to submit that as against the Order passed by the 2nd Respondent the Petitioner Association has to prefer an Appeal under Sec 45 of the Tamil Nadu Societies Registration Act. Since due to the sudden spread of epidemic disease of Corona throughout the world, more particularly in India, the Hon'ble Prime Minister of India, has ordered for Curfew throughout the Nation, the functions of the 1st Respondent has been completely locked down.'

10 Therefore, it is clear that it is the stated position of the writ petitioner that the writ petitioner ATRCRA has chosen to come to this court without taking alternate remedy route of a statutory appeal to first respondent under Section 45 of said Act only because of the lock down owing to Covid 19 scenario resulting in first respondent's office being completely locked down.

11 In the web hearing today, learned State Counsel submitted on instructions that 1st respondent's office has



started functioning from Monday (20.04.2020). Under the normal circumstances that would have been the end of this writ petition, but on instructions, learned counsel for writ petitioner submitted that there are about 35 employees and the monthly salary payable to them is not exceeding Rs.5,00,000/- (Rupees five lakhs only). To be noted, writ petitioner has opened an account bearing No.50200048093001 with 6th respondent Bank. Also to be noted, as far as the extreme urgency is concerned, as articulated by writ petitioner in the case file, it is payment of salary to these employees.

12 Mr.C.Mohan, learned counsel for 6th respondent bank on instructions submits that current account by writ petitioner was opened only on 20.02.2020 and as on 30.03.2020, there is a balance of Rs.6,45,548/-. More importantly, learned counsel for Bank submits that the concerned branch of the bank, namely Arumbakkam Branch has been sealed owing to Covid 19 scenario by the Chennai Corporation on 14.04.2020 and that the sealing is to operate upto 12.05.2020.

13 Therefore, two crucial aspects of the matter are as follows:

(a) One is writ petitioner has chosen to come before this Court by way of instant writ petition without filing a statutory appeal under Section 45 of said Act before first respondent solely because of first respondent's office not functioning owing to lock down;

(b) Second aspect is, extreme urgency qua payment of salary to 35 employees of writ petitioner, ATRCRA which does not exceed Rs.5 lakhs per calendar month.

14 It comes to light that aforesaid first aspect now stand defused and the second aspect can be addressed.

15 Mr.T.M.Papaiah, learned Special Government Pleader, as mentioned supra, submitted on instructions that first respondent has started functioning from Monday, i.e., 20.04.2020. It is also submitted that first respondent if approached with a statutory appeal under section 45 of said Act qua impugned order by writ petitioner ATRCRA, the same can be disposed of by holding a video conferencing hearing of all parties concerned after putting them on advance notice. It is also submitted that parties can make their submissions as hearings can be held in video conference platform by first respondent, who is the appellate authority.

16 Therefore, the main ground on which writ petitioner has come to this court as articulated in paragraph 15 of writ affidavit now stands doused. Writ petitioner can approach first respondent by way of statutory appeal and the same will be disposed of expeditiously within a time frame in accordance with law, details of which will be set out infra in the operative portion of the order.



17 With regard to payment of salary to employees, learned counsel for Bank Mr.C.Mohan very fairly submitted that though the concerned branch has been sealed by Chennai Corporation, considering the plea that it is the salary of employees, the bank can make alternate arrangement and ensure that the amount specified are credited directly into the account of respective employees. Therefore, if the writ petitioner furnishes details of 35 employees together with their PAN number and bank account details, which will obviously include the name of the bank and branch, besides quantum of salary payable to each employee, the 6th respondent can credit those specified amounts directly from aforementioned current account of ATRCRA to respective accounts of employees. What is of importance is the total amount of salary payable to all the 35 employees shall not exceed Rs.5 lakhs. If it exceeds Rs.5 lakhs, 6th respondent bank will not be under any obligation to make the credit as indicated herein. This arrangement is made only because this court is informed that many of the employees are sanitary workers and are economically heavily dependent on this income. In other words, it is owing to severely disadvantaged situation of employees which has been projected which impels this Court to make this interim arrangement. However, this payment will also be subject to the outcome of the appeal before the first respondent.

18 In the light of the narrative thus far, the following order is passed:

(a) It is open to writ petitioner ATRCRA to prefer a statutory appeal to first respondent against the impugned order being order dated 18.03.2020 bearing reference No.16787/E2/2017 made by second respondent by way of an electronic mail to the official email id of first respondent. If the writ petitioner chooses to do so, this shall be done by 27.04.2020;

(b) Thereafter, the first respondent shall take up the statutory appeal, issue notices to all concerned, more particularly the 5th respondent, namely TRCOWA, give a reasonable opportunity of being heard, inter-alia by permitting them to send their submissions by electronic mail and by holding video conferencing hearing. In other words, first respondent shall give reasonable and sufficient opportunity to all concerned, particularly 5th respondent TRCOWA and thereafter, dispose of the statutory appeal on its own merit and in accordance with law as expeditiously as possible and in any event on or before 15.06.2020.



(d) In the interregnum, it is open to writ petitioner to give the list of 35 employees together with their PAN number, bank account number and bank name / branch details and the monthly salary payable to each of the employees for the month of March 2020 to learned counsel for 6th respondent Bank. If the same does not exceed Rs.5,00,000/- (Rupees five lakhs only), 6th respondent shall directly credit the respective salary amount to the account of respective employees. If the total amount of salary payable exceeds Rs.5 lakhs, according to the list given, 6th respondent will not be under obligation to honour this directive.

(f) Though obvious, it is made clear that this court has not expressed any opinion or view on the merits of the matter and therefore, the first respondent shall dispose of the statutory appeal on its own merit and in accordance with law, as indicated above.

(h) The 7th respondent shall ensure that there is no law and order problem and learned Government Advocate (Criminal Side) shall give suitable instructions to 7th respondent in this regard. 7th respondent is at liberty to do all that is necessary to ensure status quo ante (as above) de hors 30.03.2020 complaint till the disposal of statutory appeal by first respondent. In other words, 7th respondent shall ensure that impugned order made by second respondent, i.e., order dated 18.03.2020 bearing reference



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No.16787/E2/2017 shall govern the ground situation till disposal of statutory appeal by first respondent.

(i) Writ petitioner shall give email id of all concerned including the email id of 5th respondent at the time of filing of appeal before first respondent.

(j) Mr.T.M.Papaiah, learned Special Government Pleader and Ms.Kritika Kamal, learned Government Advocate (Criminal Side) shall instruct their respective clients about the contents of this order and ensure due compliance forthwith without waiting for this order to be hosted in the website.

19 Writ petition stands disposed of on above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

vvk

To

- 1.The Inspector General of Registration,
Santhome, Chennai.
- 2.The District Registrar (Administration)-
Cum-Registrar of Societies,
South Chennai District, Chennai-600 014.
- 3.Sub-Registrar of Chit & Societies,
South Chennai.
- 4.The Inspector of Police,
T-13, Kundrathur Police Station

W.P.No.7452 of 2020

SR(CO)
GN(15/07/2020)