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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.5548 of 2016
and WMP.No.4882 of 2016

V.Anandan

...Petitioner

Vs

1. The Inspector General of Registration,
Santhome, Chennai - 600 004.
2. The District Registrar (Societies),
Chennai South,
No.9, Jeans Road,
Saidapet, Chennai - 600 015.
3. Jains Pebble Brook Flat Owners Association
Represented by the Secretary,
2-A, Mahalakshmi Flats,
No.28, Arunachalam Road, Saligramam,
Chennai - 600 093.
4. Mr.A.Shanmugam,
The President,
Jains Pebble Brook Flat Owners Association,
Block 9, Door #FH (First Floor),
Madha Koil Road, Okkiam Pettai,
Thoraipakkam, Chennai - 600 097

...Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the second respondent to enquire into the complaint given by the petitioner dated 09.02.2016 and forbear the third respondent Association bearing Registration No.197/2014 from acting on behalf of the residents of the Jains Pebble Brook Apartment Complex at Madha Koil Road, Okkiam Pettai, Thoraipakkam, Chennai - 600 097 in representative capacity.



For Petitioner : No appearance
For R1 & R2 : Mr.G.Krishnaraja,
Government Counsel
For R3 & R4 : Mr.M.L.Ganesh

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ORDER

According to the petitioner, the third respondent Association was formed by nine people, to safeguard its members, who are the residents of Jains Pebble Brook Apartment Complex at Madha Koil Road, Okkiam Pettai, Thoraipakkam, Chennai - 600 097 and the same is being controlled and regulated by the fourth respondent. It is the grievance of the petitioner that the respondents 3 and 4 unilaterally imposed conditions in the matters relating to collection of maintenance, creation of corpus fund from and out of the maintenance amount and utilisation of the amount for common amenities and they never consulted the flat owners in any of the issues relating to the maintenance of the flats. The petitioner further averred that the Memorandum of Association and the Rules and Regulations are flouted by the fourth respondent, which crippled the rights of the individual flat owners. Therefore, on 09.02.2016, the petitioner gave a complaint to the second respondent in this regard. However, no action was taken on the same. Hence, he has come up with this writ petition seeking a mandamus to the second respondent to forbear the third respondent Association from acting on behalf of the residents of the Apartment in representative capacity.

2. There is no representation for the petitioner. Heard the learned counsel appearing for the respondents and also perused the documents enclosed in the typed set of papers.

3. Pointing out various allegations against the respondents 3 and 4, the petitioner made a complaint on 09.02.2016 to the second respondent, requesting to conduct a detailed enquiry, cancel the registration, if required, and appoint an Adhoc committee to run the affairs of the Association till such time the issues are resolved. However, the said complaint has not yet been considered, till date, according to the petitioner. Therefore, this court, without expressing any opinion on the merits of the case, directs the second respondent to consider the complaint dated 09.02.2016 submitted by the petitioner, if not considered earlier, conduct an enquiry in the presence of the petitioner, fourth respondent as well as any other interested parties, and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.



4. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
Santhome, Chennai - 600 004.
2. The District Registrar (Societies),
Chennai South,
No.9, Jeans Road,
Saidapet, Chennai - 600 015.

+1cc to the Government Pleader, S.R.No.40397

WP No. 5548 of 2016

PM(CO)
PM/24/09/2021