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W.P.No.21036 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

W.P. No.21036 of 2016

TVH Lumbini Square Owners Association
Having office at Ground Floor,
Next to 2nd Block,
No.127-A, Brick Klin Road,
Purasawalkam, Chennai – 600 007,
Represented by its Secretary,
Johnson S.Sasikumar

... Petitioner

Vs.

1.The District Registrar,
Central Chennai,
No.182, Bharathi Salai,
Royapettah,
Chennai – 600 014.

2.R.Satyanarayanamoorthy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records related to Letter No. 4534/E2/ 2016 dated 27.05.2016 issued by the 1st Respondent and quash the same and consequently direct the 1st Respondent to issue a certificate taking on record the amendment of the Bylaws of the petitioner approved in the Annual General Body Meeting dated 28.09.2014 and filed on 04th May 2015 and invocation to request this Honble Court to maintain status-quo till the 1st Respondent issues a certificate taking on record as prayed supra.



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For Petitioner : M/s.Elizabeth Seshadri
For R1 : Mr.E.Vijay Anand
Additional Government Pleader

ORDER

The writ petition is filed for issuance of a writ of certiorarified mandamus to quash the letter, dated 27.05.2016, issued by the 1st respondent, and to direct the 1st respondent to register the amended by-laws, as required under the provisions of the Tamil Nadu Societies Registration Act, 1975.

2.Brief facts which are necessary for the disposal of the writ petition are as follows :

The petitioner is a Housing Society registered under the Tamil Nadu Societies Registration Act, 1975. It is stated that the owners of about 435 apartments at 127-A, Brick Kiln Road, Purasawalkam, Chennai, are eligible to become the members of the Housing Society. The Society is founded for the welfare of the residents of the apartments and the Society is meant for proper maintenance, housekeeping, security, block facilitation,



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plumbing, electricity service and other domestic, day-to-day and maintenance activities for the benefit of the members. It is not disputed that the petitioner Society has obtained Registration Certificate, indicating that the Society is registered vide Registration No.204/11 under the Act. Later on, the authorized signatory of the Society has filed a petition before the 1st respondent seeking amendment of by-laws. The proposed amendment indicates that the maintenance charge @ 2.75 per sq. ft. was required to be paid in advance on quarterly basis and the members are liable to pay penalty for the delayed payment @ Rs.100/- per day as late fee charges. There were few other amendments, which are incidental. After receiving the application, the 1st respondent, by the impugned communication, dated 27.05.2016, has informed the petitioner to the effect that the proposed amendment to the by-laws is not taken on file and therefore, till such time, the amendment is registered, the amended by-laws cannot be implemented, as the implementation of the amended by-laws will be contrary to the provisions under Section 12(3) of the Tamil Nadu Societies Registration Act, 1975.

3.Heard the learned counsel on either side and perused the materials available on record.



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4. Under Section 12 of the Tamil Nadu Societies Registration Act,

1975, every registered Society can amend the provisions of its memorandum relating to the objects of the Society or by-laws by a special resolution. Such an amendment shall be registered and only on such registration, the amendment shall take effect from the date of passing of the special resolution. In the present case, the impugned communication only states that, in terms of Section 12 of the Tamil Nadu Societies Registration Act, 1975, the amendment can be acted upon only after it is duly registered in accordance with the provisions of the Act. This communication is formal and it is required, so that the Society presenting the application for registration of by-laws should know why the registration of amended by-laws is kept pending. The petitioner cannot challenge the said communication, which is in accordance with law. Hence, this writ petition is not maintainable.

5. However, liberty is granted to the petitioner to pursue the application submitted for registration of amended by-laws, in accordance with law. If the petitioner produces relevant documents and records, the 1st respondent is directed to consider the same on merits and in accordance with law, after issuing notice to the 2nd respondent.



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6. With this direction, the writ petition stands dismissed. No costs.

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mkn

Internet : Yes

Index : Yes / No

Speaking order / Nonspeaking order

To

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S.S. SUNDAR, J.

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