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C.R.P.(PD).No.1752 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2022

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

C.R.P.(PD).No.1752 of 2022

A.Sandhya

... Petitioner

Vs.

1.M/s.Aishwarya Properties Private Limited
Rep. by its Director S.Sridharan
NewryGrandeur. No.19[Old No.11]
B Block, 2nd Avenue, Anna Nagar East,
Chennai – 600 102.

2.M/s.Newry Celestial Apartment Owners Welfare Association,
Rep. by its General Secretary Mahadevanthangaraj
Flat No.802, A-Block, Newry Celestial Apartments,
Poonamallee Avadi Main Road, Paruthipattur,
Avadi, Chennai – 600 071.

... Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records of the lower Courts, set aside order and decreetal order dated 26.08.2021 passed in CMA.No.8 of 2019 on the file of the Subordinate Judge, Poonamallee, confirming the order and decreetal order dated 06.08.2019 passed in I.A.No.1113 of 2018 in



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O.S.No.479 of 2018 on the file of the Principal District Munsif Court, Poonamalle and allowing this Civil Revision Petition.

For Petitioner : Mr.M.Silambarasan

ORDER

This Civil Revision Petition has been preferred challenging the order of the learned Subordinate Judge, Poonamallee dated 26.08.2021 made in C.M.A.No.8 of 2019.

2. The petitioner is the plaintiff in the suit in O.S.No.479 of 2018 and he has filed the suit for the relief of declaration that the election result declared on 09.05.2018 at the suit apartment as null and void and not valid in the eye of law and other consequential relief of permanent injunction. Pending suit petition in I.A.No.1113 of 2018 was filed for appointment of Receiver to conduct election in a fair and proper manner and the same was dismissed. The Civil Miscellaneous Appeal filed challenging the said order and that was also dismissed on 26.08.2021. Now this Civil Revision Petition is preferred challenging the said order passed in the Civil Miscellaneous Appeal.



3. The learned counsel for the petitioner submitted that without appointment of the Receiver the election cannot be done in a fair and proper manner and in accordance with bye-law.

4. But it is seen that the prayer in the plaint itself is to declare the earlier election and its result as null and void and also for seeking permanent injunction restraining the elected representatives from executing their functions and also to hand over the funds. If a Receiver is appointed for conducting fresh election and to elect new members that would amount to giving the suit prayer itself. An interim order cannot be granted like a permanent relief in the guise of passing an order in an interlocutory application.

5. Further it is reliably learnt that the earlier representatives, whose election was challenged in the suit have resigned their post and handed over the corpus to the petitioner herein. In such case, nothing survives in the suit and the suit itself will lose its value. Under such circumstances the interim prayer now sought by the petitioner for appointment of Receiver need not be granted. Hence, I find no reason to interfere with the order passed by the



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R.N.MANJULA, J

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learned Subordinate Judge, Poonamalle confirming the order passed by the
Principal District Munsif, Poonamalle.

6. Accordingly, this Civil Revision Petition is dismissed and the order passed by the learned Subordinate Judge, Poonamalle confirming the order passed by the Principal District Munsif, Poonamalle is confirmed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

15.06.2022

Index: Yes/No

Speaking / Non Speaking Order

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To

1.The Subordinate Judge, Poonamalle.

2.The Principal District Munsif, Poonamalle.

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