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CMP.No. 6005 of 2024
in
Rev.Appl.Sr.No. 23330 of 2024

T.V.THAMILSELVI, J

This Civil Miscellaneous Petition is filed to condone the delay of 200 days in preferring the Review Petition.

2. Earlier this Court passed an order in CRP.No. 465 of 2023, dated 06.07.2023 stating that even according to the finding of the Advocate Commissioner, the respondents are not maintaining proper accounts of the Association and the voucher entries are not tallying with the computer records which explicitly shows the respondents are deliberately manipulating the accounts of the Association and only to suppress their mismanagement, they are subverting the election process. In order to review the order passed by this Court, the present petition is filed to condone the delay of 200 days in preferring the review petition after passing of the order dated 06.07.2023.

3. The learned Counsel for the respondents strongly objected the above CRP has been filed for setting aside the fair and decreetal order dated 05.01.2023 in IA.No. 3 of 2022 in O.S.No. 6208 of 2022 on the file of XXIII Assistant City Civil Court, Chennai. The Revision was listed under the caption for being mentioned on 12.07.2023 and on the specific prayer of the petitioner,



the order was sought to be modified and this Court was pleased to modify the order dated 06.07.2023. The petitioners cannot maintain the present application for condone delay/review petition on the order passed by this Court on 06.07.2023 and 12.07.2023 which is nothing but an abuse of due process of law. The prayer sought by the petitioners have already been rejected by the trial Court in IA.No.4 of 2022 for production of accounts for the year from 2019-2022 of the Association. The respondents filed CRP.No. 465 of 2023 before this Court challenging only the order dated 05.01.2023 passed by the trial Court in IA.No. 3 of 2022 in respect of appointment of Advocate Commissioner.

4. This Court by order dated 06.07.2023 appointed Advocate Commissioner to conduct the Annual General Meeting and the election of the Association. At this stage, the CRP was listed before this Court as for being mentioned. This Court had modified the order dated 06.07.2023 by directing the petitioners and the respondents to pay Rs.50,000/- and Rs.1,50,000/- per month respectively to the Commissioner. Therefore, the petitioners maliciously, once again filed CMP.Nos.27525 and 27528 of 2023 for modification of the orders passed in CRP and this Court had directed the respondents to bear the entire cost of the fee payable to the Commissioner.



5. The above CRP has been filed for conduct of election by the Commissioner by the respondents. If the petitioners does not want election and want only an administrator as prayed in C.M.P.No.27528 of 2023 or appointment of an auditor as prayed in Sub-Application No.108 of 2024, the petitioners should have filed appeal against the orders passed in IA.No. 2 of 2022 and I.A.No. 4 of 2022 which were dismissed on merits. The prayer of the petitioners in Sub-Application No. 108 of 2024 for appointment of an auditor in CRP.No. 465 of 2023 for conducting the statutory audit of the Association, viz., Arihant Majestic Towers Flat Owners Association is not maintainable.

6. Heard both side and perused the records.

7. Admittedly, the CRP.No.465 of 2023 was filed by the petitioners/respondents challenging fair and decreetal order dated 05.01.2023 in IA.No. 3 of 2022 in O.S.No. 6208 of 2022 on the file of XXIII, Assistant City Civil Court, Chennai, for appointment of Advocate Commissioner. After perusing the records, this Court allowed the Civil Revision Petition by order dated 06.07.2023. Subsequently, another two applications were filed for appointment of Advocate Commissioner to conduct internal audit in the Association. During the pendency of the above applications, now again, the



petitioners/respondents have come forward with the present application seeking to condone the delay of 200 days in preferring the Review Petition. The main contention of the respondents is that already the order passed in CRP.No. 465 of 2023 was modified. According to the contention of the petitioners is that in order to get available remedy in the subject application, the earlier order passed by this Court, needs to be reviewed in the CRP, otherwise, the petitioners have also get fruitful order in the subject applications. In order to avoid complications, this Court is inclined to condone the delay of 200 days in preferring the Review Petition.

8. Upon being satisfied with the reasons stated in the affidavit filed in support of this application, this application is ordered accordingly.

08.04.2024

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