



WEB COPY



W.P. No.13926 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 10.07.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**W.P.No.13926 of 2024 and**  
**W.M.P. No.18357 of 2024**

M/s.Pearl Beach Plot Owners Welfare Association  
Represented by its Secretary  
Mrs.Pushpavalli Suresh Babu  
No.120, Paramankeni Village  
Cheyyur Taluk  
Chengalpattu District - 603 305

... Petitioner

Vs

- 1.The Inspector General of Registration  
Santhome Chennai
- 2.The District Registrar (Admin)/Registrar of Societies  
Chengalpet
- 3.Mageshkumar
- 4.Basant Nahata
- 5.K.Gopalan
- 6.Mrs.Usha Rani
- 7.Venkatasamy

... Respondents



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**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records in proceedings of the first respondent in Se.Mu.Aa.No.11879/I1/2024-1 dated 14.05.2024 and quash the same and direct the 1st respondent to pass orders on merits in the appeal filed by the petitioner dated 18.03.2024 in accordance with law.

For Petitioner : Mr.M.Nandhakumar  
for M/s.Eswar, Kumar and Rao  
Law Firm

For Respondent : Mr.B.Vijay,  
Addl. Govt. Pleader for R1 and R2  
Mr.K.G.Vasudevan for R3 to R7

### **ORDER**

Challenge has been made to the impugned order passed by the appellate authority in Se.Mu.Aa.No.11879/I1/2024-1 dated 14.05.2024 and for a consequential direction to the appellate authority to pass orders on merits in the appeal filed by the petitioner dated 18.03.2024 in accordance with law.

2. It is the case of the petitioner that that petitioner is a welfare association consisting of plot owners in the layout known as 'Pearl Beach'. The



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AGM of the association was held on 06.08.2023. In the said AGM, 27 amendments were proposed. When approval of the amendments sought before the authorities, the original authority has held that since only one subject was discussed however the amendments were made in respect of 27 items. Therefore, directed the writ petitioner to once again present the amendments after proper meeting.

3. Challenging the said order, an appeal has been filed before the appellate authority under Section 45 of the Societies Registration Act. The appellate authority has held that the appeal is not maintainable, since the original authority has not passed any order refusing to accept the amendments of the by-laws. Challenging the said order, the writ petition has been filed.

4. A counter has been filed by the fifth respondent on behalf of respondents 3 to 7. Their main contention is that the meeting was utter violation of by-laws. As per the existing by-laws, the President and Secretary of the association shall be the residents of the Plots. However, now the same has sought to be amended. According to them, any amendment in respect of by-



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laws, there must be a special resolution as per by-law No.37. No special resolution has been passed. Hence they opposed the writ petition.

5. Be that as it may, the challenge has been made to the impugned order. The impugned order proceeds, as if there is no refusal on the part of the original authority in approving the amendments to by-laws. The impugned order of the original authority itself indicates that he did not accept the amendment to by-laws on the ground that there was discussion in only one subject however 27 amendments have been furnished. The very order of the original authority directing the parties to present the amendments once again after following the procedure itself indicates that the approval of the amendments sought has been refused by the original authority. Such being the position, as against the refusal of registration of the amendments to the by-laws, the proper remedy is to file an appeal as provided under Section 45 of the Registration Act. However, the appellate authority has simply rejected the appeal on the ground that it is not maintainable, since there was no refusal order passed by the original authority. The order of the appellate authority shows clear non-application of mind, the same cannot be sustained in the eye of law. Hence the order of the first respondent in Se.Mu.Aa.No.11879/I1/2024-1 dated 14.05.2024, stands quashed.



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The matter is remitted back to the first respondent, namely the Inspector General of Registration, to hear the appeal afresh on its own merits and after giving an opportunity to the petitioner as well as the private respondents and dispose of the appeal within a period of two months from the date of receipt of a copy of this order.

6. The writ petition is allowed with the above directions. No costs. Consequently, W.M.P. No.18357 of 2024, filed to amend the prayer, is closed as not necessary.

**10.07.2024**

Index : Yes / No  
Neutral Citation : Yes / No  
Asr

To

- 1.The Inspector General of Registration  
Santhome Chennai
- 2.The District Registrar (Admin)/Registrar of Societies  
Chengalpet
- 3.The Government Pleader  
High Court, Madras



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**N.SATHISH KUMAR, J.**

Asr

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**and W.M.P. No.18357 of 2024**

**10.07.2024**