



W.P.No.30288 of 2024

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M.DHANDAPANI, J.

This writ petition has been listed under the caption “for being mentioned” at the instance of the learned counsel for the petitioner on the ground that an inadvertent error has crept in paragraph No.6 of the order.

2. Paragraph No.6 of the order shall read as follows :

“6. Admittedly, the claims and counter claims are all questions of fact which need to be gone into and decided by the Election Officer appointed pursuant to the order of this Court. That apart, civil suit is pending before the Sub Court, Alandur with respect to the resolution passed in the general body meeting held on 11.06.2023 and the fact as to whether **111** members are defaulters, who are not eligible to be included in the voters list, itself can be decided only on the outcome of the civil suit, hence the same cannot be gone into at this stage in the present writ petition.”



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sp

3. Registry is directed to carry out the necessary correction in the order dated 21.10.2024 and issue a fresh copy of the order to the learned counsel for the parties. In other respects, the earlier order dated 21.10.2024 shall remain unaltered.

30.10.2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.30288 of 2024

and

W.M.P.Nos.34148 and 32968 of 2024

T.K.Suresh Kumar

... Petitioner

Vs.

1. The Inspector General of Registration,
Santhome High Road,
Chennai,
Tamil Nadu - 600 028.

2. The District Registrar,
No.26, MES Road,
East Tambaram,
Chennai,
Tamil Nadu - 600 059.

3. Mr.V.Srikanth

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the third respondent to consider the representation dated 27.09.2024 in relating to the inclusion of all 776 flat owner members for the upcoming election for the tenure of 2024-2027, as voters of the Bloomingdale Apartments Owners Welfare Association with the time fixed by this Court.



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For Petitioner : Mr.G.Murugendran

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For Respondents : Mr.P.Harish
Government Advocate for R1 & R2

ORDER

This petition has been filed seeking a direction to the third respondent to consider the representation dated 27.09.2024 in relating to the inclusion of all 776 flat owner members for the upcoming election for the tenure of 2024-2027, as voters of the Bloomingdale Apartments Owners Welfare Association with the time fixed by this Court.

2. The short facts which are necessary for the disposal of the writ petition is that the petitioner is a resident of petition mentioned apartment. A association by name Bloomingdale Apartments Owners Welfare Association is formed and the same was registered with the District Registrar (South), Chennai vide Registration No.354 of 2019. After registration of the association, the office bearers were elected in September 2021 for a period of three years, i.e., from September 2021 to September 2024. Pursuant to the general body meeting held on 11.06.2023, the maintenance charges was increased by a resolution dated 11.06.2023. Aggrieved against the said resolution, the petitioner filed a



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suit in O.S.No.33 of 2024 before the Sub Court, Alandur and the same is pending. Subsequently, no-confidence motion was initiated by the petitioner against the office bearers and all the office bearers are resigned. The interim Committee was constituted and the petitioner was appointed as one of the Interim Committee members of the association. Challenging the same, the office bearers lodged a complaint before the District Registrar against their voluntary resignation alleging that it was forcefully taken by the resident members. The District Registrar, after hearing both sides, reinstated the resigned office bearers on 24.04.2023 and the same was challenged before the first respondent / Inspector General of Registration. The said case was disposed of with a direction to conduct a fresh election to the association by the Interim Committee. Challenging the same, the office bearer filed W.P.No.263 of 2024 before this Court which was disposed of with a direction to conduct the election within a period of one month after 29.09.2024.

3. Pursuant to the appointment of the election officer, the present office bearers submitted a list of 262 resident members who were defaulters in paying the increased maintenance charges (petitioner is one among them). The Interim Committee constituted a Election Committee



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in March 2023 by preparing a draft voter list consisting 776 members as per the by-laws of the association. Out of which, the present office bearers declared 262 members as defaulters. Requesting the inclusion of all 776 flat owners in the voter list, the petitioner gave a representation to the respondents on 27.09.2024. The petitioner now seeks direction to the respondents to consider the said representation.

4. Heard the learned counsel appearing for the petitioner who reiterated the averments made in the affidavit filed in support of the writ petition and also heard the learned Government Advocate appearing on behalf of the respondents 1 and 2 and perused the materials placed before this Court.

5. Admittedly the petition mentioned association is a registered society. It is also not in dispute that the petitioner has already filed O.S.No.33 of 2024 before the Sub Court, Alandur challenging the resolution passed by the office bearers dated 11.06.2023 increasing the maintenance charges and the same is pending. It is seen that the petitioner has made a representation dated 27.09.2024 to the respondents that there are totally 776 flats in the apartment and that the resolution



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dated 11.06.2023 was passed increasing the maintenance charges alleging that the said resolution was not approved by the 2/3rd members of the association which is in violation of Clause 28 of the by-laws of the association. It is also not in dispute that no-confidence motion against the office bearers was initiated following which the office bearers voluntarily resigned from their posts. Currently, the Interim Committee is administering the association. It is also seen that the Election Officer is appointed by order dated 09.09.2024 in W.P.263 of 2024. However, in the draft voter list, out of 776 eligible voters, 262 resident members' names were deleted as defaulters in payment of maintenance and water charges. Hence, the petitioner sent a representation to the respondents on 27.09.2024 to include all 776 resident members in the voter list.

6. Admittedly, the claims and counter claims are all questions of fact which need to be gone into and decided by the Election Officer appointed pursuant to the order of this Court. That apart, civil suit is pending before the Sub Court, Alandur with respect to the resolution passed in the general body meeting held on 11.06.2023 and the fact as to whether 262 members are defaulters, who are not eligible to be included in the voters list, itself can be decided only on the outcome of the civil



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suit, hence the same cannot be gone into at this stage in the present writ petition.

7. Accordingly, this Writ Petition is dismissed with a liberty to the petitioner to workout his remedy in the manner known to law before the civil Court. No costs. Consequently, connected miscellaneous petitions are closed.

21.10.2024

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

Note: Issue order copy by 23.10.2024.

To

1. The Inspector General of Registration,
Santhome High Road,
Chennai,
Tamil Nadu - 600 028.
2. The District Registrar,
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