



W.P.(MD) No.21035 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.21035 2024

and

W.M.P.(MD)Nos.17806 to 17808 and 17812 of 2014

B.Leena Chantha

...Petitioner

-vs-

1.The Inspector General of Registration,
No. 100, Santhome High Road,
Patinampakkam, Chennai 625 020

2.The Deputy Inspector General of Registration,
Raja Kambeeram, Othakadai,
Madurai 625 020

3.The Registrar of Societies / District Registrar,
Madurai North, Raja Kambeeram, Othakadai,
Madurai 625 020

4.The Branch Manager,
State Bank of India,
Lady Doak College Branch,
Narimedu, Madurai.

5.Senthil Kumar

6.Rajesh

7.Sundarrajan

8.Karuppasamy

9.Jeyaseelan Arockiaraj

...Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.3072/E1/2024 dated 29.07.2024 and to quash the same and consequently forbear the 3rd respondent from registering the Form-7 if any submitted by the 5 to 9 Respondents.

For Petitioner	: Mr.K.Navaneetharaja
For R1 to R3	: Mr.M.Siddarthan Additional Government Pleader
For R4	: Mr.N.Dilip Kumar
For R5 to R9	: Mr.J.Barathan

ORDER

This writ petition has been filed challenging the order passed by the 3rd respondent in Na.Ka.No.3072/E1/2024 dated 29.07.2024 and consequently to forbear the 3rd respondent from registering Form-7, if any submitted by the 5 to 9 Respondents.

2.Heard the learned counsel for the petitioner, learned Additional Government Pleader for the respondents 1 to 3, learned counsel for the respondents 4 to 9. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.



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3.It is the case of the writ petitioner that the petitioner is the Secretary of the association, namely 'Vishal Jagadeesh Apartments Resident Welfare Association'. Initially, it was under the name of 'Welfare Association of the Flat Owners of Vishal Jagadeesh Apartments', which was established for the welfare of the flat owners in the said apartment. In the said association, the respondents 5 to 7, 9 and the son of the 8th respondent were the members. The association used to collect the monthly maintenance amount from the flats, shops and reliance smart retail outlet and spend the same for the development of the apartment. The Officer bearers selected in the election year 2013 are holding the office without any election till 2022. However, neither any accounts nor any Form-VII were submitted during that period.

4.Sine the residents in the apartments were not satisfied with the performance of the said association, a new association was formed with necessary by-law to ensure the proper administration of the association in the name and style of 'Vishal Jagadeesh Apartments Resident Welfare Association' registered in Sl.No.SRG/Madurai North/167/2022, wherein



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the petitioner was appointed as Treasurer. Thereafter, the petitioner opened a current account for doing the financial transactions of the association in Account No.42098834178. Since the Secretary died on 28.04.2023, the petitioner was elected as Secretary of the association through a resolution dated 28.05.2023 and the sixth respondent herein was elected as a Treasurer.

5.Subsequently, the bylaws were amended on 28.05.2023. Further on 11.08.2023, the fifth respondent submitted his resignation from the post of President. Later, it was known that the sixth respondent had misappropriated a sum of Rs.2,11,000/- from the old association. Hence, in a extraordinary general body meeting, the resignation of the fifth respondent was accepted and a resolution was passed to take action against the sixth respondent for his misappropriation. In order to wreck vengeance against the petitioner and other members in the said meeting, without any prior notice to the petitioner, with help of the respondents 5 to 7 and 9, had removed the petitioner from the membership of the association. In the meantime, the petitioner filed an objection for registering any Form-VII without the consent of the petitioner and some



other members. However, the same was rejected by the third respondent.

Challenging the same, the petitioner has filed this writ petition.

6.The learned counsel for the petitioner would submit that the impugned order is in discriminatory nature. The respondents 5 to 9 had violated the by laws of the association and misappropriated the funds of the association. The third respondent without considering the same, had accepted the Form-VII submitted by the respondents 5 to 9 and rejected the objections of the petitioner.

7.A perusal of the impugned order makes it clear that the objections given by the petitioner for receiving Form-VII from the respondents 5 to 9 has been rejected and the Form-VII submitted by the private respondents had been accepted. The third respondent, while rejecting the objections given by the petitioner, was of the opinion that the petitioner is not the member of the association at that point of time and only two members have signed in the resolution submitted by the petitioner. The third respondent had only recorded his *prima facie* opinion alone in the order impugned in this writ petition.



8.It is relevant to note that as far as the power of Registrar to hold an enquiry in accepting Form-VII is limited only to record a *prima facie* opinion as to the correctness of the particulars given in Form-VII. Therefore, such an opinion recorded by the Registrar cannot be construed as a conclusive one.

9.In this regard, the Hon'ble Full Bench of this Court in a case of ***C.M.S.Evangelical Suvi David Memorial Higher Secondary School Committee vs. The District Registrar and others*** [W.A.Nos.2969 of 2001 etc., batch dated 24.02.2005] had held that while recording Form-VII, the Registrar has only to arrive *prima facie* conclusion as to the correctness of the particulars given in Form-VII not beyond it. Therefore, mere acceptance of Form-VII by the third respondent cannot be construed as if final findings had been rendered by the District Registrar on the merits of the matter, accepting the case of the respondents and it will not take away the rights of the parties to establish their stand before the competent civil Court.



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10.Further, there are disputed questions of facts in the issue raised by both the parties, particularly with regard to the resolution, removal of members etc., the same cannot be gone into by this Court in a writ petition. It is for the petitioner to challenge the resolution and removal of the petitioner from the membership, before the competent civil Court in the manner known to law.

11.Accordingly, this writ petition is dismissed. No costs.
Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No
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To

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