

21.04.2025
Court No.13
Item No. 8-9
Pk/ap

FMA 1314 of 2022
CAN 1 of 2022
CAN 2 of 2023
CAN 3 of 2023
CAN 4 of 2023
CAN 5 of 2024
Kendriya Vihar II Apartment Owners Association
alias Kendriya Vihar II
Vs.
State of West Bengal and others

With

M.A.T. 155 of 2024
CAN 1 of 2024
Kendriya Vihar II Apartment Owners Association
alias Kendriya Vihar II
Vs.
Shri Subhasis Das and others

Mr. Subhajit Chowdhury
Mr. Indranuj Dutta

... For the Appellant.

Mr. Devajyoti Barman
Mr. Sudhir Kumar Senapati

...For the Respondent Nos.7, 12, 20 & 30.

Mr. Soham Sen
Mr. S. Bhattacharjee

...For the Respondent No.15.

Mr. Asish Kumar Guha,
Mr. Rajendra Chaturvedi

... For the State in MAT 155 of 2024.

Mr. Ayan Dutta,
Ms. Souma Bhattacharya,
Mr. Debarshi Das
Mr. Atanu Bhattacharya

...For the Respondent Nos.8 to 11, 13 to 14,
16 to 19, & 23 to 29.

Ms. Malabika Saha
Ms. Ahipha Khan

... For the Intervener.

1. Paper books filed in Court are taken on record.
2. The instant appeals are directed against a judgement and order dated 18th August, 2022 passed by a Single Bench of this Court in WPA 19177 of 2021.

3. The subject matter of the writ petition was an order dated 12.11.2021 passed by the Competent Authority under the West Bengal Apartment Ownership Act, 1972. The Competent Authority under the aforesaid Act, 1972 had directed the President to share with all the eligible members of the association a soft copy of Form A and Form 1 submitted to the Competent Authority on 24th July, 2021.

4. All necessary steps were directed to be taken by the President of the apartment association to resume all services including security and reception for the alleged default of members until further orders.

5. The said order culminated in a final order dated 12.11.2021 wherein several issues, inter alia, being why the name of the Kendriya Vihar II Apartment Owners Association was being used instead of the registered name Kendriya Vihar II. The issue has been set at rest by this Court. The Competent Authority directed revision of the registered name of the Society. The second issue was why the accounts of another entity Kendriya Vihar II Apartment Owners Association was emerged into the name of Kendriya Vihar II.

6. The said issue was also answered to the effect that there was only one association and hence the records of Kendriya Vihar II must be deemed to be the records of Kendriya Vihar II Apartment Owners Association.

7. The next issue was with regard to the opening of the account of bank of Baroda despite existence of the accounts of the UCO Bank.

8. The Competent Authority also directed the two bank accounts to be appropriately reconciled to make the two bank of Baroda operational account. No illegality was found on the part of the Association in maintenance of the bank accounts. The next issue decided was the legality of the demanding money from the period prior to formation of Kendriya Vihar II. The Competent Authority directed that the accounts of the Association to be prepared and budgeted with effect from 20th October, 2019 and realize maintenance charges from members with effect from 20th October, 2019. In essence all earlier claims made by the Association against members was found not acceptable.

9. This Court has carefully considered the order dated 12th November, 2021 impugned in this writ petition and the findings of the learned Single Judge in the judgment dated 18th August, 2022.

10. Indeed it is true that the scope for interference of Article 226 of the Constitution of India with an Administrative and/or judicial order is limited. This Court finds that there has been no violation of principles of natural justice. The findings of the competent authority are not de hors the evidence on record. The decision of the competent authority to

reckon account from 20th October, 2019 is based on appropriate and sound reasoning and with a view to resolve all issues between the parties.

11. By no stretch of imagination can the impugned order of the competent authority, be called perverse. A Writ Court does not sit in appeal over an order of the Administrative Authority.

12. In that view of the matter, this Court is of the view that the impugned order dated 18th August, 2022 calls for no interference.

13. In any event a new elected Board of Management has taken over to run the Society. Any further grievance of the parties may be agitated before the Competent Authority in accordance with law.

14. With the aforesaid observations, these appeals are dismissed.

15. In view of dismissal of the appeals, all the pending connected applications are dismissed.

16. There will be no order as to costs.

17. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)