



2024:KER:9749

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

MONDAY, THE 5TH DAY OF FEBRUARY 2024 / 16TH MAGHA, 1945

WP(C) NO. 4207 OF 2024

PETITIONERS:

- 1 SOMANADHAN V.S., AGED 77 YEARS, S/O SEKHARAN,
RESIDING AT MADHAVI NILAYAM, NEAR PJ ANTONY GROUND,
PACHALAM P.O., PACHALAM DESOM, ERNAKULAM VILLAGE,
KANAYANNUR TALUK, ERNAKULAM DISTRICT, KOCHI,
PIN - 682012
- 2 SUJATHA RAJESH, AGED 56 YEARS, APARTMENT NO. A-5,
GCDA HIG FLATS, (ERNAKULAM SOUTH COMMECIAL CENTRE
HOUSING COMPLEX), BROTHER MAVOORAS ROAD, KARSHAKA
ROAD, KOCHI, PIN - 68201

BY ADVS.

JACOB MATHEW MANALIL
PRIYA ELIZABETH BABU
HRISHIKESH JAYASARMAN
PERSIS THOMAS

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 2 THE SECRETARY, MINISTRY OF HOUSING AND LAW,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 3 INSPECTOR GENERAL OF REGISTRATION, OFFICE OF THE
INSPECTOR GENERAL OF REGISTRATION, VANCHIYOOR P.O.,
THIRUVANANTHAPURAM. KERALA, PIN - 695035
- 4 THE DISTRICT REGISTRAR, ERNAKULAM DISTRICT
1ST FLOOR, PERUMPILLY BUILDING, MAHATAMA GANDHI
ROAD, ABOVE KEERTHILAL JEWELLERY, KPCC JUNCTION,
PIN - 682011
- 5 THE SUB- REGISTRAR, ERNAKULAM DISTRICT, 2ND FLOOR,
PERUMPILLY BUILDING, MAHATAMA GANDHI ROAD, ABOVE
KEERTHILAL JEWELLERY, KPCC JUNCTION, PIN - 682011
- 6 DEPUTY COLLECTOR (DISASTER MANAGEMENT), (THE
COMPETENT AUTHORITY UNDER THE KERALA APARTMENT



OWNERSHIP ACT,1983) DISTRICT COLLECTORATE, FIRST FLOOR, CIVIL STATION, KAKKANAD, ERNAKULAM, PIN - 682030

7 COCHIN MUNICIPAL CORPORATION, REPRESENTED BY ITS SECRETARY, PARK AVENUE ROAD, MARINE DRIVE, KOCHI, KERALA, PIN - 682011

8 GREATER COCHIN DEVELOPMENT AUTHORITY REPRESENTED BY ITS SECRETARY, SAHODARAN AYYAPAN ROAD, KADAVANTHARA, KOCHI, PIN - 682020

SRI. SUNIL K.KURIAKOSE, GP
SRI. K.JANARDHANA SHENOY, SC
SRI.VIPIN P. VARGHESE, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

Even though various various averments have been made by the petitioners in this Writ Petition - based on which multiple reliefs have been sought, when this matter was called today, their learned counsel – Sri.Jacob Mathew Manalil, confined his plead to the fourth among them, namely that respondents 1 and 2 be directed to hear his clients also, while drafting the new Apartment Ownership Act, as stipulated in Ext.P5.

2. This Court is aware that certain connected matters have already been disposed of by this Court, through the judgment in WP(C)No.34824/2014 and connected matters. As evident from the said judgment, this Court has directed the competent Authority of the 1st respondent – State of Kerala, to hear all interested persons, while considering amendments to the Apartment Ownership Act; and I do not see any reason why the petitioners should be denied such opportunity.

3. In fact, Sri.Sunil Kumar Kuriakose – learned Government Pleader; Sri.Vipin P. Varghese – learned Standing Counsel for GCDA



and Sri.Janardhana Shenoy – learned Standing Counsel for the Corporation of Cochin did not oppose the afore limited request of the learned counsel for the petitioner.

In the afore circumstances, I allow this Writ Petition and direct that when the directions in the judgment in WP(C)No.34824/2014 is complied with, the petitioners will also be given an opportunity of being heard and of furnishing their version.

After I dictated this part of the judgment, Sri.Jacob Mathew Manalil, submitted that the 1st petitioner is, in fact, the President of the Kerala Apartment Owners Apex Association, registered under the provisions of the Travancore Cochin Literary and Charitable Societies Registration Act, 1955. He prayed that, therefore, the first among the petitioners be allowed to impel the concerns of the members of the said Association also.

Of course, this liberty is always available to the 1st petitioner and he can address the Committee to be constituted, as reflected in the aforesaid judgment, on behalf of the Association, as also in his personal capacity; however, clarifying that this liberty cannot be construed to be an affirmation that the Association has any vested



right.

To obtain an expeditious compliance of the afore directions, the petitioners will produce a copy of this judgment, along with a copy of the full Writ Petition, before the competent Committee without any avoidable delay, but not later than two weeks from the date of receipt of a copy of this judgment.

RR

Sd/ -

DEVAN RAMACHANDRAN
JUDGE

**APPENDIX OF WP(C) 4207/2024**

PETITIONER EXHIBITS

- Exhibit 1 TRUE COPY OF THE SALE DEED DATED 22/03/2005 EXECUTED BY THE GCDA
- Exhibit P2 TRUE COPY OF THE RTI APPLICATION DATED 06-05-2015, ADDRESSED TO PUBLIC INFORMATION OFFICER, OFFICE OF THE DISTRICT REGISTRAR (GENERAL) ERNAKULAM
- Exhibit P3 REPLY DATED 16-05-2015 OF THE STATE PUBLIC INFORMATION OFFICER, OFFICE OF THE DISTRICT REGISTRAR (GENERAL) ERNAKULAM
- Exhibit P4 A COMPARATIVE TABLE BRINGING OUT THE LEGAL ADVANTAGES OF REGISTERING AN APARTMENT OWNERS' ASSOCIATION UNDER THE KERALA APARTMENT OWNERSHIP ACT, 1983 OVER THE SOCIETIES REGISTERED UNDER THE TRAVANCORE-COCHIN LITERARY, SCIENTIFIC AND CHARITABLE SOCIETIES REGISTRATION ACT, 1955
- Exhibit P5 TRUE COPY OF THE LETTER ISSUED TO THE APARTMENT OWNERS ASSOCIATION OF KERALA BY THE DEPARTMENT OF HOUSING, GOVERNMENT OF KERALA DATED 01/08/2011
- Exhibit P6 TRUE COPY OF THE JUDGMENT DATED 6TH DAY OF NOVEMBER 2019, IN WRIT APPEAL NO. 974 OF 2019 AND WRIT APPEAL NO. 1206-1211/2019, PASSED BY KARNATAKA HIGH COURT, BENGALURU
- Exhibit P7 TRUE COPY OF THE ORDER DATED 10-07-2023 PASSED BY HIGH COURT OF ORISSA AT CUTTACK IN W.P(C) NO. 18799 OF 2021