

IN THE COURT OF SUBORDINATE JUDGE – CUDDALORE**I.A. 120 / 2018 in O.S. 289 / 2018**

M. Mohammed Shahid & another ... Petitioners/Plaintiffs

Vs

Dr. Jagan Mohan R & another ...Respondents/Defendants 1, 2

OBJECTION FILED BY THE 1st RESPONDENT

1. The petition by the petitioner is most unjust, unreasonable, unjustified and liable to be dismissed.
2. These respondents have filed a detailed written statement and the same may be referred to as part and parcel of this objection. All the averments & allegations in the affidavit of the petitioner are denied except those which are expressly admitted herein.
3. Anugraha Satellite Township (Township, for brevity), a residential layout located on Pondicherry Cuddalore Road (NH 36A) comprising about 530 individual houses was developed by Navasakthi Township Developers Private Limited (Developer, hereinafter for brevity) during 2006-10. All the purchasers of the individual houses entered into and executed a Builder's Agreement with the Developer which had binding clauses to the effect that the common areas, amenities, utilities will be managed by an Association of House Owners and the Purchaser along with all the house owners will contribute their share towards maintenance of the common amenities.
4. As per the Builder's Agreement, the house owners and residents of the Township formed the 'Anugraha Satellite Township Residents Welfare Association' (Association, for brevity hereinafter), became its members and had it duly registered with the Registrar of Societies, Cuddalore under the Tamil Nadu Societies Registration Act of 1975 with Regd. No 71/2014, dt 08-07-2014. The Association was formed to represent the common interests, well-being, welfare of the house owners and residents and to maintain the common amenities, areas, spaces, utilities, etc. of the township. The Association thus formed, continues to function and be in continuous existence until date as a legal fiction. At no point in time since the registration of the Association, was the Association defunct. It was never 'unregistered' or its registration revoked/cancelled or was stuck off

by the Registrar of Societies or any other any competent authority as per the Tamil Nadu Societies Registration Act 1975 and Rules of 1978. The Tamil Nadu Societies Registration Act and Rules clearly stipulate the Registrar of Societies to be the Competent Authority with judicial, quasi-judicial and ministerial powers over the societies registered under the TN Societies Registration Act and Rules that provides a complete code for removal / de-registration of societies following due process. The Plaintiffs have no right to declare the Association defunct. The Plaintiffs be put to strict proof of the allegations that the Association is unregistered, does not exist, not renewed or is defunct as per the above referred act and rules. Also, There is no 'renewal' of registration contemplated under the Tamil Nadu Societies Registration Act, 1975 or Rules of 1978 – only submission of annual reports.

5. The 1st plaintiff had also filed a Writ Petition WP No: 28412/2018 before the Hon'ble High Court of Madras with the same allegations made in this Suit. He had also sought for the registration of the Association to be cancelled. The Hon'ble Court directed the Inspector General of Registration, Tamil Nadu to consider the petitioner's representation and pass orders (copy filed). With the above directions, the Writ Petition was disposed of. In pursuance of the said directions, The Inspector General of Registration has conducted a thorough enquiry with the 1st plaintiff and the 1st and 2nd defendants and dismissed the representation of the 1st plaintiff conclusively vide an order dated 04-06-2019, finding no grounds to cancel the registration of the Association, with the observation that the Association is not defunct, but very much functional, a copy of which is herein filed.
6. The Association is not governed by the Tamil Nadu Panchayats Act 1997 and Rules of 1998, nor does it act against them or contravene any of their provisions. The allegation made in the petition that the Association is an unregistered body, acting without registration, or bye-laws and illegally is denied. The allegation of monetary benefits is an imagination without merit.
7. The present office bearers of the Association are duly elected as per the provisions of the TN Societies Registration Act, 1975 & Rules of 1978. The 1st Defendant is the Secretary of the Association and the 2nd Defendant is one of two Joint Secretaries.

8. In absence of any Panchayat services for the about 530 houses of the Township, the Association provides essential civic amenities and services such as drinking water supply and its pipeline maintenance, water storage tanks, 24x7 security, plumbing services, electricity services, electric bills payment support, roads maintenance, collection of household, horticulture and other garbage, maintenance of underground sewage pipeline network, fiber optic connectivity conduits, temple services, festivals, children's programs, cultural events, sports events, trees planting, grass control, sewage treatment, liaison with government authorities and offices, layout regularisation, plot regularisation, health camps, and other miscellaneous services.
9. To fulfil the above objectives and services, the Association is well within its rights to conduct any meetings, collect funds, maintain bank accounts, undertake and execute projects towards goals and objectives stated in its bye-in the interest of the township and its members, residents, house owners, society as well as the environment.
10. If at all the petitioner has any genuine grievance over the activities of the Association, they are free to sue the Association and not the respondents or any office bearers in their individual capacities. They could also move the Governing Body of the Association as per the Bye-Laws for redressal of their grievances. Without exhausting the existing remedies, they have rushed to this Hon'ble court with unclean hands, concealing material facts and deliberate misinformation to mislead the court.
11. The petitioners cannot seek to restrain the Association from functioning by arraying just two of its more than 20 office bearers in their personal capacities as respondents/defendants. Non-joinder of the Association as an essential party renders the petition and suit non-maintainable.
12. The petitioners have instituted this suit mala fide with oblique motives and hidden agenda to incapacitate the Association from functioning effectively in safeguarding the interests of about 530 houses and households.
13. The Respondents in their official capacity as the Association's Secretary and Joint Secretary and are duty bound and responsible for a number of functions of the Association. If they are restrained from carrying out their duties, the Association's essential civic services such as drinking water supply, garbage collection, security, sewage treatment, etc will be

affected and the residents of the Township will be put to great difficulty and the injury caused cannot be compensated.

In view of the above, the petition may be dismissed with costs.

Counsel for 1st Defendant

1st Defendant

VERIFICATION

I, the 1st Defendant herein do hereby declare that the facts stated above are true to the best of our knowledge, belief and information.

1st Defendant

LIST OF DOCUMENTS

1. 08.07.2014 - Certificate of Registration of the Association by the Registrar of Societies - Copy.
2. 03.12.2018 - Order of the Hon'ble Madras High Court in WP No 28412 of 2018 - Copy.
3. 04.06.2019 - Order of the Inspector General of Registration on representation of the 1st Plaintiff pursuant to WP No 28412/2018 - Copy.
4. 17.07.2018 - Newspaper Notice given by the Plaintiffs as if in representative capacity without explicit permission of Hon'ble Court - Copy.
5. August 2019 - Photos of the unfinished RCC Construction on Plot of the 1st Plaintiff - Copy

IN THE COURT OF SUBORDINATE JUDGE – CUDDALORE**I.A. 121 / 2018 in O.S. 289 / 2018**

M. Mohammed Shahid & another ... Petitioners/Plaintiffs

Vs

Dr. Jagan Mohan R & another ...Respondents/Defendants 1, 2

OBJECTION FILED BY THE 1st RESPONDENT

1. The petition by the petitioner is most unjust, unreasonable, unjustified and liable to be dismissed.
2. These respondents have filed a detailed written statement and the same may be referred to as part and parcel of this objection. All the averments & allegations in the affidavit of the petitioner are denied except those which are expressly admitted herein.
3. Anugraha Satellite Township (Township, for brevity), a residential layout located on Pondicherry Cuddalore Road (NH 36A) comprising about 530 individual houses was developed by Navasakthi Township Developers Private Limited (Developer, hereinafter for brevity) during 2006-10. All the purchasers of the individual houses entered into and executed a Builder's Agreement with the Developer which had binding clauses to the effect that the common areas, amenities, utilities will be managed by an Association of House Owners and the Purchaser along with all the house owners will contribute their share towards maintenance of the common amenities.
4. As per the Builder's Agreement, the house owners and residents of the Township formed the 'Anugraha Satellite Township Residents Welfare Association' (Association, for brevity hereinafter), became its members and had it duly registered with the Registrar of Societies, Cuddalore under the Tamil Nadu Societies Registration Act of 1975 with Regd. No 71/2014, dt 08-07-2014. The Association was formed to represent the common interests, well-being, welfare of the house owners and residents and to maintain the common amenities, areas, spaces, utilities, etc. of the township. The Association thus formed, continues to function and be in continuous existence until date as a legal fiction. At no point in time since the registration of the Association, was the Association defunct. It was never 'unregistered' or its registration

revoked/cancelled or was struck off by the Registrar of Societies or any other any competent authority as per the Tamil Nadu Societies Registration Act 1975 and Rules of 1978. The Tamil Nadu Societies Registration Act and Rules clearly stipulate the Registrar of Societies to be the Competent Authority with judicial, quasi-judicial and ministerial powers over the societies registered under the TN Societies Registration Act and Rules that provides a complete code for removal / de-registration of societies following due process. The Plaintiffs have no right to declare the Association defunct. The Plaintiffs be put to strict proof of the allegations that the Association is unregistered, does not exist, not renewed or is defunct as per the above referred act and rules. Also, There is no 'renewal' of registration contemplated under the Tamil Nadu Societies Registration Act, 1975 or Rules of 1978 – only submission of annual reports.

5. The 1st plaintiff had also filed a Writ Petition WP No: 28412/2018 before the Hon'ble High Court of Madras with the same allegations made in this Suit. He had also sought for the registration of the Association to be cancelled. The Hon'ble Court directed the Inspector General of Registration, Tamil Nadu to consider the petitioner's representation and pass orders (copy filed). With the above directions, the Writ Petition was disposed of. In pursuance of the said directions, The Inspector General of Registration has conducted a thorough enquiry with the 1st plaintiff and the 1st and 2nd defendants and dismissed the representation of the 1st plaintiff conclusively vide an order dated 04-06-2019, finding no grounds to cancel the registration of the Association, with the observation that the Association is not defunct, but very much functional, a copy of which is herein filed.
6. The Association is well within its rights to collect funds towards fulfilment of its aims and objectives, operate & maintain bank accounts and spend its funds in pursuit of its functions, as per its bye-laws for the interest of the township, its members, residents, house owners, society and environment without undue interference and interruption. The Bank Accounts alleged in the petition belong to the Association and are not the property of the 1st and 2nd respondents. The 1st respondent is only one of three joint authorised signatories to operate the account. The 1st respondent cannot operate the account by himself. Any two of the three authorised signatories need to authorise any operation. It is false to

claim that the 1st respondent is operating the accounts. A copy of the Bank Passbook is filed.

7. The petitioners have no *locus standi* whatsoever to comment on the conditions of the 1st defendant's service as a doctor at Mahatma Gandhi Medical College and Research Institute, Pondicherry.
8. In absence of any Panchayat services for the about 530 houses of the Township, the Association provides essential civic amenities and services such as drinking water supply and its pipeline maintenance, water storage tanks, 24x7 security, plumbing services, electricity services, electric bills payment support, roads maintenance, collection of household, horticulture and other garbage, maintenance of underground sewage pipeline network, fiber optic connectivity conduits, temple services, festivals, children's programs, cultural events, sports events, trees planting, grass control, sewage treatment, liaison with government authorities and offices, layout regularisation, plot regularisation, health camps, and other miscellaneous services.
9. All the homeowners are required by the Builder's Agreement to pay a monthly maintenance fee towards maintenance of common amenities and services as detailed above.
10. The 1st petitioner is a defaulter of the maintenance fees, but continues to enjoy all the services, especially drinking water and sewage treatment of his household and cannot be heard to criticise the Association. The 1st Petitioner has not contributed any funds to the Sewage Treatment Plant implementation project. He as a non-member and non-contributor cannot dictate how the Association may manage its money contributed to it by its members.
11. If the Association's work is interrupted in anyway, garbage will pileup on the roads, drinking water supply will be interrupted and disposal of thousands of liters of human sewage will be stopped leading to crisis of every sort. Normal life will be disrupted, and hundreds of the township's residents including children and elderly will be put to extreme hardship. The Association also provides employment and livelihood to about 60 people (sanitary and multi purpose workers, security personnel, priests, STP technicians, etc) who are dependent on the Association as well as vendors.

12. The petitioners seek to impose havoc and chaos in the township by restraining the Association from operating its lawful accounts so that they can take advantage of their hidden, vested interests.
13. The petitioners have arrayed the respondents in their private capacities and have failed to array the Association whose Bank Accounts they seek to freeze in an attempt to incapacitate the Association. Failure to array the Association as an essential party renders the suit non-maintainable.
14. If the Operation of the Bank Accounts of the Association is restrained, all services rendered by the Association on day to day basis will be effectively terminated and the residents of the Township will be put to great difficulty and the injury caused cannot be compensated.

In view of the above, the petition may be dismissed with costs.

Counsel for 1st Defendant

1st Defendant

VERIFICATION

I, the 1st Defendant herein do hereby declare that the facts stated above are true to the best of our knowledge, belief and information.

1st Defendant

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3. 04.06.2019 – Order of the Inspector General of Registration on representation of the 1st Plaintiff pursuant to WP No 28412/2018 – Copy.
4. 10-10-2017 – Bank Passbook of the Association – Front Page - Copy
5. August 2019 - Photos of the unfinished RCC Construction on Plot of the 1st Plaintiff – Copy