

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

Wednesday, the 6th day of July 2022 / 15th Ashadha, 1944

WP(C) NO. 21317 OF 2021(L)

PETITIONERS:

1. KENT MAHAL APARTMENT OWNERS ASSOCIATION INFOPARK KARIMUGAL ROAD, BRAHMAPURAM P.O, PUTHEKURISH, VADAVUCODE, KERALA, PIN-682303. REPRESENTED BY ITS SECRETARY, MR.JOMON A., AGED 43 YEARS, S/O GEORGE ABRAHAM, FLAT.NO.T3/8A1, KENT MAHAL, INFOPARK KARIMUGAL ROAD, BRAHMAPURAM.P.O, PUTHENKURISH, VADAVUCODE, KERALA, PIN-682303.
2. KENT OAKVILLE APARTMENT OWNERS ASSOCIATION, ROOM KENT OAKVILLE BENEDICT ROAD, VAZHAKALA, KOCHI, PIN-682021, REPRESENTED BY ITS SECRETARY, RAJESH CHUNDAYIL MADATHIL, AGED 42 YEARS, S/O K V KRISHNA KUMAR, RESIDING AT ROYAL OAK, FLAT NO.4 A4, KENT OAKVILLE BENEDICT ROAD, VAZHAKALA, KOCHI, PIN-682021.

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF REGISTRATION, SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001.
2. DEPUTY COLLECTOR (DISASTER MANAGEMENT) (COMPETENT AUTHORITY UNDER THE APARTMENT OWNERSHIP ACT), KAKKANAD COLLECTORATE, ERNAKULAM, PIN-682030.
3. KENT CONSTRUCTIONS PRIVATE LIMITED, DOOR NO.63/3441-A166 KENT HAIL GARDEN FIRST FLOOR, STADIUM LINK ROAD, NEAR JAWAHARLAL NEHRU INTL. STADIUM, PALARIVATTOM, KOCHI, KERALA-682025.
4. ADDL.R4. SECRETARY TO GOVERNMENT KERALA STATE HOUSING BOARD, SECRETARIAT, THIRUVANANTHAPURAM. (IS SUO MOTU IMPEADED AS PER ORDER DATED 18-03-2022 IN WP(C) 21317/2021).

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to respondent no.2 to issue a certificate in the nature of Ext.P13 and p14 to the petitioner, without insisting for declaration and deeds of apartment to be filed by all the apartment owners, pending disposal of the writ petition.

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S. JOHNSON GOMEZ, S.BIJU, SANJAY JOHNSON, JOHN GOMEZ, SREEDEVI S., ENLIN MARY RODRIGUS, MOHAMED SHEHARAN, DINOO P.D. & SANJITH JOHNSON Advocates for the petitioners, GOVERNMENT PLEADER for respondents 1 & 2 and of SMT. C.K.SHERIN Advocate for respondent 3, the court passed the following:-

P.T.O.



T.R.RAVI, J.

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Dated this the 06th day of July, 2022

ORDER

WP(C)No.21317/2021

This writ petition was heard along with WP(C)No.9317/2021 for some time. There is a challenge to the statutory provision and hence Government Pleader seeks further time to place on record a counter affidavit and to address the arguments.

2. The petitioner submits that in similar circumstances Exts.P14 and P15 registrations have been granted and they may also be granted the registration provisionally subject to the result of the writ petition. Since the concerned authority has issued certificates as per the Kerala Apartment Ownership Act, 1983, I find that the request is reasonable.

3. There will hence be an interim direction to the 2nd respondent to grant provisional certificate to the petitioner for registration, similar to Exts.P14 and P15, subject to the result of this writ petition.

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The prayer in the writ petition is to quash the certificates which has been issued on the ground that it has been issued on

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the basis of declarations submitted only by 56 owners, while the total number of owners is much more than that. Since the issue is to be finally decided on the basis of validity of Section 2, I decline an interim relief at this stage. All that needs to be observed is that the registration which has been granted as per Ext.P10(b) will be subject to the result of this writ petition.

4. Post the both the writ petitions for hearing on 01.08.2022.

H/o

sn



Sd/-
T.R.RAVI, JUDGE

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| Exhibit P13 | A TRUE COPY OF THE LETTER DATED 30.10.2021 ISSUED BY THE RESPONDENT N.3 TO THE PETITIONER NO.2. |
| Exhibit P14 | A TRUE COPY OF THE CERTIFICATE OF REGISTRATION UNDER THE KAOA ISSUED BY RESPONDENT NO.2 TO TRITVAM APARTMENT OWNERS ASSOCIATION. |
| Exhibit P15 | A TRUE COPY OF THE CERTIFICATE NO.8828/2017/D4 DATED FEBRUARY 2021 ISSUED BY THE RESPONDENT NO.2 TO MYSTIC HEIGHTS-3. |

