

IN THE HIGH COURT FOR THE STATE OF TELANGANA,
AT HYDERABAD

W.P. NO. 9347 OF 2020

Between:

1. May flower Grande Owners Association
Regd.No.1282/215 at S.No.2/1/1, 183,184, 190, 191
May Flower Grande, Mallapur Village,
Uppal Mandal, Medchal-Malkajgiri District.
Rep. by its President G. Kanaka Rao
2. Paramount Avenue Owners Association,
Regd No.1276/2015, survey No.233,
Nagaram Village, Keesara Mandal,
Medchal-Malkajgiri District
Rep. by its President Samit Gangwal.

... Petitioners

And

1. The State of Telangana,
Rep by its Principal Secretary,
Revenue Department,
Secretariate, Hyderabad.
2. Commissioner and Inspector General,
Registration and Stamps, Hyderabad,
Telangana State.
2. The District Registrar,
Malkajgiri,
Medchal-Malkajgiri District.
Telangana State.

Respondents

AFFIDAVIT

I, G. Kanaka Rao, S/o.Late G. Subba Rao, Aged: 60 Years, Occ:
Service, H.No.1-1-364/18/A, Jawahar Nagar, RTC X-Roads, Hyderabad -500
020, do hereby solemnly affirm and sincerely state on oath as follows:



1. I am the President of the 1st Petitioner Association and as such well acquainted with the facts of the case. I am deposing to this affidavit on behalf of the 2nd Petitioner association also as I am authorized to do so.
2. It is submitted that the Petitioners are questioning the action of the 2nd Respondent herein in issuing Circular Memo No.SOC/7124/2018, dated 28.01.2019 directing the 3rd Respondent herein not to take on record any information that the society may pass on about its affairs or seek to place on record, on the ground that the order passed by this Hon'ble Court in W.P.No.3319 of 2013 disables them to take on record such documents or information, as illegal and based on irrelevant consideration.
3. It is submitted that the Petitioner Associations were formed in the year 2015 and registered before the 3rd Respondent under the Telangana Societies Registration Act, 2001. I submit that the members of the Petitioner Associations are all owners of individual apartments/units in the apartment complex constructed by the builder M/s. Modi Properties and Investments Pvt Ltd.,. I submit that the objects of the society include permitting / encouraging social activities like encouragement of schools, cultural programme etc. It is submitted that, ever since the date of registration of the Societies the Petitioner Societies have been acting for the welfare of the members and promoting culture and conducting entertainment, sports educational programmes etc to the best of their ability and as time and means permit. As per the byelaws of the society every year elections are conducted for the



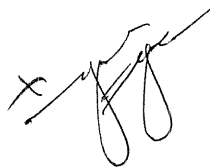
society and after elections the details of the new managing committee, executive committee are placed before the 3rd Respondent for record purpose in accordance with the provision of the Act and Rules. Similarly whenever there is a change in the ownership of any apartment the name of the earlier owner is deleted and the new owner is included as a member in the society and the said information has to be passed on to the 3rd Respondent for the purpose of recording the same and maintaining the record.

4. While things stood thus, it appears that this Hon'ble Court has passed an order in W.P.No.3319 of 2013 holding that a particular society established at that point of time only with the object of maintaining an apartment complex and conducting repairs and collecting maintenance etc., does not fall within the definition of Public Society U/s. 31 of the Act. It is submitted that basing upon this order passed by this Hon'ble Court the 2nd Respondent has issued Circular Memo No.SOC/7124/2018, dated 28.01.2019 to all the District Registrars including the 3rd Respondent directing them not to register or record any documents or information whenever such societies file the same on the ground that the order passed by this Hon'ble Court in W.P.No.3319 of 2013 do not permit such an action and the same would be against the spirit of law and with a further advise to get the society registered under the Cooperative Societies Act if the members so desire. It is submitted that the orders passed by this Hon'ble Court in W.P.No.3319 of 2013 do not bar registration of a society of which the members are the owners of any

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apartment complex. In the particular case W.P.No.33319 of 2013 the only object for which the society was formed is that of maintaining the apartment complex and as such the Hon'ble Court has passed such orders directing that the object for which the society is formed does not fall within the framework of Section 3 of the Act and as such it has to be deregistered. However, in the instant case though the petitioner associations are formed by the owners of apartments in an apartment complex as members the similarity ends there. The object for which the association has been formed is clearly for the upliftment of members and promotion of entertainment, sports, cultural, educational program etc., which is permissible under the Societies Registration Act, 2001. Apart from the said object there are certain other objects like the maintenance of the complex, up keep of the same and other such incidental and ancillary purposes. The same are not a bar for registering the society under the provisions of the Act if one of the objects of the society is promotion of social, cultural and educational and entertainment activities. Thus the Circular issued by the 2nd Respondent is totally illegal and under the mistaken opinion that this Hon'ble Court has barred registration of societies formed by owners of apartments whatever their objects may be.

5. I submit that after the elections were conducted in the year 2019 for the Executive Committee of the petitioner Associations, the particulars of the new Executive Committee/ Managing Committee were submitted to the 3rd respondent by way of an application on 04.05.2019 and 14.05.2019

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respectively. It is submitted that inspite of passage of fairly long period when the 3rd respondent was not taking the said material on record, the petitioner Associations have addressed a letter dated 14.06.2019 to the 3rd respondent. By that time the petitioner Associations were informed that the new particulars are not being taken on record as this Hon'ble Court has passed a judgement in W.P.no.3319 of 2013 dated 05.03.2013. I submit that in the letter dated 14.06.2019 this position was placed before the 3rd respondent stating that the petitioner associations objects fulfill the requirement of the A.P. Societies Registration Act, 2001 and as such the judgement of this Hon'ble Court passed in W.P.No.3319 of 2013 does not apply to the facts of the petitioners case and requested for taking the amendments of the Society on record. However till date there is no response from the side of the respondent No.3.

6. I submit that after the passing of the impugned circular the petitioners herein have filed a representation before the Respondent No.3 stating that the petitioner associations do not fall within any of the findings of the order passed by this Hon'ble Court and there is no bar in continuing the petitioner associations. However, there is no response to the said representation. Thus the petitioners are constrained to file the present writ petition.

7. The Petitioner Associations have got no other alternative and effective remedy except to approach this Hon'ble Court under Article 226 of the Constitution of India.



8. The Petitioner Associations have not filed any other writ petition or proceedings in any Court or Tribunal for the same relief which is claimed in the present writ petition.

9. It is necessary that the Hon'ble Court may be pleased to direct the 2nd and 3rd Respondents to receive the documents/information field by the Petitioner Associations and place the same on record pending disposal of the writ petition.

10. It is, therefore, prayed that this Hon'ble Court may be pleased to issue a writ of mandamus or any other appropriate writ or order or direction declaring the Circular Memo No. SOC/7124/2018, dated 28.01.2019 issued by the 2nd Respondent as illegal and unsustainable and set aside the same and consequently direct the 3rd Respondent to receive the documents and information which may be field by the Petitioner Associations and place them on record like any other society and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Sworn and signed before me on
this the 4th day of June, 2020
at Hyderabad.



Deponent

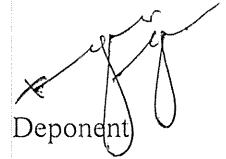
Advocate/Hyderabad

VERIFICATION

I, G. Kanaka Rao, S/o.Late G. Subba Rao, Aged: 60 Years, Occ:
Service, H.No.1-1-364/18/A, Jawahar Nagar, RTC X-Roads, Hyderabad-500
020, do hereby verify and declare that the contents of the above paragraphs
are true and correct to the best of my knowledge, information and belief and
as per legal advice.

Hence verified on this the 4th day of June 2020 at Hyderabad.

Counsel for the Petitioners


Deponent

