

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6<sup>TH</sup> DAY OF NOVEMBER, 2019

PRESENT

THE HON'BLE MR.ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE S.R.KRISHNA KUMAR

**WRIT APPEAL NO. 974 OF 2019 (GM-KSR) AND**  
**WRIT APPEAL NOS.1206-1211/2019 (GM-KSR)**

BETWEEN :

VDB CELADON APARTMENT OWNERS ASSOCIATION  
REPRESENTED BY ITS PRESIDENT  
VDB CELADON  
SHIVANAHLLI VILLAGE  
YELAHANKA HOBLI  
YALAHANKA  
BENGALURU-560064

...PETITIONER

(By Sri SREENEVASA K L, ADVOCATE)

AND :

1 . MR. PRAVEEN PRAKASH  
S/O SHRI B L VISHWAKARMA,  
AGED ABOUT 36 YEARS,  
R/AT A-204,  
VDB CELADON HOUSING COMPLEX,  
SHIVANAHALLI VILLAGE,  
YELAHANKA HOBLI,  
YALAHANKA,  
BENGALURU-560 064

2 . MR NARASIMHA SWAMY  
S/O LATE VEDALA SIMHADRI,  
AGED ABOUT 35 YEARS,  
R/AT A-401,  
VDB CELADON HOUSING COMPLEX,  
SHIVANAHALLI VILLAGE,

YELAHANKA HOBLI, YALAHANKA,  
BENGALURU-560 064

- 3 . MR NARESH PRASAD P  
S/O SHRI A KUMRAN NAIR,  
AGED ABOUT 43 YEARS,  
R/AT A-403,  
VDB CELADON HOUSING COMPLEX,  
SHIVANAHALLI VILLAGE,  
YELAHANKA HOBLI, YELAHANKA,  
BENGALURU-560 064
- 4 . MR VIVEK NAIR  
S/O SHRI G C NAIR,  
AGED ABOUT 34 YEARS,  
R/AT A-102,  
VDB CELADON HOUSING COMPLEX,  
SHIVANAHALLI VILLAGE,  
YELAHANKA HOBLI, YELAHANKA,  
BENGALURU-560 064
- 5 . MR G SURIYA NARAYANAN  
S/O LATE R GOPALA KRISHNA IYER,  
AGED ABOUT 51 YEARS,  
R/AT B-404,  
VDB CELADON HOUSING COMPLEX,  
SHIVANAHALLI VILLAGE,  
YELAHANKA HOBLI, YELAHANKA TALUK  
BENGALURU-560 064
- 6 . MR S K TEJASWI  
S/O SHRI K SUBRAMANYA,  
AGED ABOUT 32 YEARS,  
R/AT NO.A-202,  
VDB CELADON HOUSING COMPLEX,  
SHIVANAHALLI VILLAGE,  
YELAHANKA HOBLI, YELAHANKA TALUK,  
BENGALURU-560 064
- 7 . MR SREENIDISH C  
S/O SHRI V C PADMANABHAN NAIR,  
AGED ABOUT 41 YEARS,  
REPRESENTED BY THE POWER OF  
ATTORNEY HOLDER,  
MR. VINOD KAMMANA,  
FATHER-IN-LAW OF MR. SREENIDHISH C,

R/AT THOTTATHIL HOUSE,  
IRINGAL (P.O), VATAKARA,  
KOZHIKODE (DISTRICT) KERALA-673 521

- 8 . THE STATE OF KARNATAKA  
REPRESENTED BY ITS REGISTRAR,  
DEPARTMENT OF CO-OPERATIVE SOCIETIES,  
NO.1, ALI ASKAR ROAD,  
BENGALURU-560052
- 9 . THE DEPUTY REGISTRAR OF  
CO-OPERATIVE SOCIETIES  
2ND FLOOR, NO.32,  
KARNATAKA STATE CO-OPERATIVE FEDERATION,  
RACE COURSE ROAD,  
BENGALURU-560001
- 10 .THE DISTRICT REGISTRAR  
OFFICE OF THE REGISTRAR OF SOCIETIES,  
NO.3, MARUTHI PLAZA, 2ND FLOOR,  
2MD MAIN ROAD, VYALIKAVAL,  
BENGALURU-560003

...RESPONDENTS

(By Sri SURIYA NARAYANAN G,  
ADVOCATE FOR R1 TO R7  
SRI Y.H. VIJAY KUMAR, PRL.GOV'T. ADVOCATE  
FOR R8 TO R10)

THESE WRIT APPEALS ARE FILED UNDER SECTION  
4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING  
TO ALLOW THE APPEAL AND SET ASIDE THE ORDER  
DATED 5.02.2019 PASSED BY THE LEARNED SINGLE  
JUDGE IN WP NO.34660/2017 & 35719-35724/2017 (GM-  
KSR).

THESE APPEALS COMING ON FOR ORDERS THIS  
DAY, **CHIEF JUSTICE** DELIVERED THE FOLLOWING:

### **JUDGMENT**

The appellant is a Society registered under the Karnataka Societies Registration Act, 1960 (for short, 'the said Act of 1960'). By the impugned order passed in a petition filed by the first to seventh respondents, the learned Single Judge has proceeded to cancel the registration of the appellant Society under the provisions of the said Act of 1960.

2. It is the case of the appellant that M/s Value Design Private Limited, a builder and developer, constructed the apartment complex consisting of six blocks having 196 flats. The complex has various facilities such as swimming pool, club house, gymnasium, indoor game halls, parking space, walking track, etc. The case of the appellant is that no steps have been taken to form an Association of apartment owners by the developer under the provisions of the Karnataka Apartments Ownership Act, 1972 (for short, 'the said Act of 1972').

3. The case made out by the appellant is that in terms of the said Act of 1972, deeds of declaration by the owners were prepared. However, an Association of apartment owners as contemplated by the said Act of 1972 was not

registered and therefore, a majority of the apartment owners came together and formed the appellant Association in order to maintain the residential complex and to give services to the owners of the apartments.

4. The submission of the learned counsel appearing for the appellant is that the objects of the appellant Association will fall in the categories covered by Section 3 of the said Act of 1960. He pointed out that the dominant purpose or object of forming the said Association is to administer, maintain and run the buildings and apartments constructed by the aforesaid developer. He submitted that in fact, the appellant has been collecting maintenance charges for maintaining the residential complex from a majority of the apartment owners, barring a few of the owners of the apartments who are opposing the appellant. He submitted that there is nothing wrong with the registration of the appellant Association under the said Act of 1960 and that if the impugned order is maintained, the members who have not paid the maintenance will go scot-free. Without prejudice to his contentions, he submitted that the first to seventh respondents must co-operate for formation of the Association as contemplated by the said Act of 1972.

5. We have given careful consideration to the submissions.

6. Section 3 of the said Act of 1960 reads thus:

**3. Societies to which the Act applies.-**

The following societies may be registered under this Act,—

Societies established for,—

- (a) the promotion of charity;
- (b) the promotion of education, science, literature, or the fine arts;
- (c) the promotion of sports;
- (d) the instruction and the diffusion of knowledge relating to commerce or industry or of any other useful knowledge;
- (e) the diffusion of political education;
- (f) the foundation or maintenance of libraries or reading rooms for general use among the members or open to the public, or of public museums and galleries of painting and other works of art;
- [(ff) the promotion of conservation and proper use of natural resources and scarce Infrastructural facilities like land, power, water, forest and such other resources and infrastructural facilities, as may be notified by the State Government from time to time.]
- (g) the collection of natural history, mechanical and philosophical inventions Or designs and

Which intend to apply their profits, if any, or other income in promoting their objects and prohibit the payment of any dividend or distribution of any income or profits among their members.”

Even according to the case of the appellant, the dominant object for the formation of the appellant Association is to administer, maintain and run the building and apartments. Clauses 5.1 and 5.2 are, even according to the learned counsel for the appellant, the dominant objects of the Association, and they read thus:

5.1 To administer, maintain and run the building and apartments known as VDB Celadon No.23/3, 23/4, 26/1, Shivanahalli Hobli, Jakkur Road, Yelahanka, Bangalore – 560064.

5.2 To Carry on the Day-to-day work relating to all aspects of the building, apartments, common areas, common facilities and common services therein;

7. On a plain reading of Section 3 of the said Act of 1960, it is clear that the object of administering, maintaining and running the buildings and apartments and to carry on the day-to-day work relating to all the aspects of the buildings/apartments, common areas and common facilities will not be covered by any of the clauses (a) to (g) of Section 3 of the said Act of 1960. Even according to the case of the appellant, Clauses 5.1 and 5.2 are its dominant objects. In fact, on the earlier date, we had granted time to

the appellant to take instructions whether it proposes to apply for deletion of certain objects which are a part of the bye-laws of the appellant Association.

8. Today, the learned counsel appearing for the appellant, on instructions, states that if the said two objects are deleted, the registration of the appellant under the said Act of 1960 cannot be maintained.

9. Thus, the main object of the appellant was to do something which could have been done by an Association formed in accordance with the provisions of the said Act of 1972. In fact, the documents of sale executed by the developer in respect of the flat/apartment contain a stipulation that the purchasers of the flats shall form an Association/Society/Condominium in accordance with the provisions of the said Act of 1972. That is how the learned Single Judge by modifying the impugned order dated 15<sup>th</sup> February, 2019, has clarified that steps can be taken to register the appellant Association under the provisions of the said Act of 1972.

10. Thus, after having perused the dominant objects of the appellant Association, we find that the said objects are not covered by Section 3 of the said Act of 1960, and



therefore, the appellant could not have been registered under the said Act. We find no error in the view taken by the learned Single Judge when he had proceeded to cancel registration of the appellant.

11. As observed by the learned Single Judge, the impugned order as well as this order will not prevent the persons who are members of the appellant Association from taking steps for formation and registration of an Association/Condominium under the provisions of the said Act of 1972 inasmuch as the sale deeds executed in favour of the apartment owners contemplate formation of such Association.

12. Subject to what is observed above, the writ appeals are dismissed. All pending applications do not survive for consideration and are accordingly disposed of.

Sd/-  
CHIEF JUSTICE

Sd/-  
JUDGE

vgh\*