



WEB COPY

CRP No. 433 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-07-2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

CRP No. 433 of 2026

Krishna Enterprises
Rep by its Managing Partner, K.Santharam
Kakada, S/o Late K.Krishna Rao,
Having Office at Old no 3, New No 7,
City Centre Plaza, Anna Salai, Chennai 600 002,
Rep by its Power Agent,
P Antony Arul Pragasam, S/o Panneer Raj,
Old no 3, New No 7, City Centre Plaza,
Anna Salai, Chennai 600 002

..Petitioner(s)

Vs

1. S. Murugesan, S/o Late S.Subbaiah,
Having their office at Chennai Corporation
Club, Krishna Complex,
City Centre Plaza, No 3, Anna Salai,
Chennai 600 002.
2. K. Sailaja, W/o. M. Kankeyan,
Having their office at Chennai Corporation
Club, Krishna Complex,
City Centre Plaza, No 3, Anna Salai,
Chennai 600 002
3. K.R.S. Owners and Tenants Association
Rep by its Secretary, Registered office at
Krishna Complex, City Centre Plaza,
5th Floor, No.3, Anna Salai, Chennai 2.

..Respondent(s)

Prayer: Civil Revision Petition is filed under Section 227 of the Constitution of India to set aside the order made on 17.09.2025 in I.A No.2 of 2025 in AS Sr.No.4856 of 2025 on the file of the I Additional City Civil Court, Chennai and allow the CRP.



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For Petitioner(s):

Mr. C.Deivasigamani

For Respondent(s):

Mr.S.Chandan Babu for R1 and R2

Mr.S.Prakash for R3

ORDER

This Civil Revision Petition has been filed to set aside the order made on 17.09.2025 in I.A No.2 of 2025 in AS Sr.No.4856 of 2025 on the file of the I Additional City Civil Court, Chennai and allow the CRP.

2. The respondents 1 and 2 herein/plaintiffs filed a suit in O.S.No.8223 of 2019 on the file of IX Assistant City Civil Court seeking declaration that the resolution passed by the third respondent association/ defendant dated 30.06.2019 is null and void and also for a consequential permanent injunction restraining the members of the third respondent association from peaceful enjoyment of the plaintiffs, in the Car parking, allotted to them. The above said suit was decreed exparte on 08.04.2022. The petitioner herein, who is a third party to the said suit, filed I.A.No.2 of 2025 in A.S.Sr No.4856 of 2025 before the first appellate court seeking leave of the court, permitting the petitioner to challenge the above said judgment and decree. The said petition was dismissed by the first appellate court and the same is impugned in this civil revision petition.

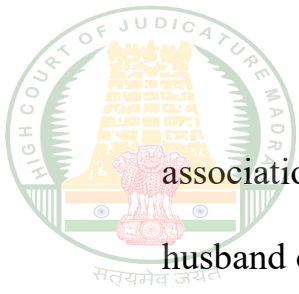


3. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

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4. The learned counsel for the petitioner states that the petitioner is the original owner of the property as well as developer and he had a constructed 5 storied building along with basement and he sold the office and shop portions to various third parties/purchaser. According to learned counsel for the petitioner, the developer has not earmarked car parking area in any of the sale deeds. It is his further case that an extent of 2000 sq.ft. has been retained by the petitioner as an owner and under the guise of the collusive decree obtained amongst the respondents, the rights of the petitioner are being seriously prejudiced and thwarted by the respondents' repeated unlawful and high handed attempts. The learned counsel therefore states that when it is brought to the notice of the first appellate court that fraud has been committed, the appellate court should have considered the claim of the petitioner objectively and should have proceeded to grant leave, instead of rejecting his application.

5. The learned counsel for the petitioner further states that originally an association was formed by the flat owners and subsequently, bypassing the said association, yet another association has been formed fraudulently, to usurp the rights of the petitioner as well as the other flat owners. He would also point out that the first plaintiff is the father in law of the 2nd plaintiff and the defendants'



association was represented only by the first plaintiff's son, who is also the husband of the 2nd plaintiff. He would therefore states that fraud is writ large on the fact of the record and that the appellate court should have granted relief to enable the petitioner to expose the fraud played upon the court by the parties in O.S.No.8223 of 2019.

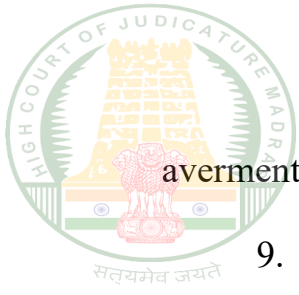
6. Per contra, the learned counsel for the respondents would submit that the petitioner has not even disclosed his subsisting interest in the suit property and as per the by-laws, the Secretary is competent to represent the association and therefore, he was rightly arrayed as the defendant, representing the common interest of all the flat owners and none of the flat owners have challenged the decree passed in O.S.No.8223 of 2019 till date. He would therefore states that the first appellate court has rightly dismissed the application seeking leave and no interference is warranted in this civil revision petition.

7. The respondents 1 and 2 herein/plaintiff filed the above said suit seeking declaration, challenging the resolution passed by the association. The suit has been decreed exparte, after the defendant entered appearance through its counsel. This is now under the attack stating that close relations have filed a collusive suit and obtained a decree, defeating the rights of other flat owners, including the petitioner, who is the developer and who also claims to have retained 2000 sq.ft. in the property. Unfortunately, only the affidavit in I.A.No.2



of 2025 in A.S.Sr No.4856 of 2025 alone is available for seeking leave, wherein, there is no whisper or any evidence supporting such claim that the petitioner had retained any sq.ft. in the suit property and that the petitioner is a member of either the first association or the defendant's association. It is only the grievance that the petitioner flat owners are the real members of the defendant association and the association could not have been represented by its Secretary, who is none other than the son and husband of the plaintiff 1, 2 respectively.

8. The first appellate court, in my considered opinion, has rightly found, on the strength of the affidavit seeking grant of leave that, the petitioner has not made out good ground seeking leave. The affidavit does not disclose the subsisting interest of the petitioner, either as an original owner or as a developer. The affidavit also does not disclose the fact that the petitioner has retained any interest in the land or superstructure, after development of the property. Admittedly, the petitioner is also not a member of the defendant association. In such circumstances, the decree in O.S.No.8223 of 2019 does not in any manner affect the rights of the petitioner. If at all, it is the case of the petitioner that he has any subsisting interest in the suit property, nothing prevents the petitioner from independently agitating his right, by way of filing a separate civil suit and it is not open to him to challenge the decree in O.S.No.8226 of 2019 by way of first appeal, that too on the strength of the



averments made in I.A.No.2 of 2025 in A.S.Sr No.4856 of 2025.

9. Accordingly, this civil revision petition is dismissed, giving liberty to the petitioner, if so advised, to agitate his grievances, if any, independently in the manner known to law. There shall be no order as to costs.

16-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MST

To

1. The I Additional Judge, City Civil Court, Chennai.

2. The IX Assistant Judge, City Civil Court, Chennai.



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P.B.BALAJI, J.

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