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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESEVALU
OSA (CAD) Nos.108 & 110 of 2021

VGN Stafford Flat Owners Welfare Association
Rep. by its President
B.A.Mani Mozhi Arasu
Having its registered office at
VGN Stafford
Sudharasana Street
Thirumalaivasan Nagar
Thirumullaivoyal
Chennai 600 062.

Appellant in
both OSAs.

Vs.

VGN Projects Estates Pvt. Ltd.
(Formerly known as VGN Property
Developers Private Limited
Rep. by its Authorized Signatory
A.Rangappan
Having its office at
No.153, Wallace Garden 2nd Street
Nungambakkam
Chennai 600 006.

Respondent in
.. both OSAs.

Prayer: Appeals under Clause 15 of the Letter Patent read with Order XXXVI, Rule 1 of O.S.Rules against the common order dated 22.09.2021 made in O.A.No.544 of 2021 and O.A.No.543 of 2021 respectively.

Common Prayer in OA.544 & 543 of 2021:

a)to grant an order of interim injunction restraining the respondent, their men, agents, Servants or any one authorized by them from in any manner, collecting, or demanding the maintenance charge from the members/flat owners of VGN STAFFORD residential complex for the periods from August 2021 to October 2021 and thereby continue violating the applicant's right to collect the



same as per the maintenance agreement dated 21.10.2019 pending disposal of the above suit.

b) Grant on order of interim injunction restraining the respondent from awarding the contract for maintenance of the VGN STAFFORD residential complex to any third party during the subsistence of maintenance agreement dated 21.10.2019 pending disposal of the above suit.

For the Appellant : Mr. Pradeep Jayaraman

For the Respondent : Mr. P. R. Raman, S.C.
For Mr. A. Umasankar

COMMON ORDER

(Order of the Court was made by
the Hon'ble Acting Chief Justice)

These appeals have been preferred to challenge the interim order dated 22.09.2021 passed by learned Single Judge in OA.Nos.544 and 543 of 2021 respectively. By the said order, the interim order granted on 13.09.2021 was extended till 22.10.2021.

2. It is a case where a suit was preferred by the non-appellant with the following prayers:

"21. The plaintiff therefore prays that this Hon'ble Court may be pleased to pass judgment and decree against the defendant:

a) Directing the defendant to pay the plaintiff a sum of Rs.2,41,85,458/- being the total maintenance charges payable to the plaintiff which is inclusive of the maintenance charges collected as on date by the defendant in violation of the agreement, unpaid maintenance charges, other dues from the members/ flat owners of "VGN STAFFORD" residential complex by breaching the terms of the agreement dated 21.10.2019 along with future interest at the rate of Rs.18% per annum thereon from the date of the Plaint, till realization;

b) For Permanent Injunction restraining the Defendant, their men, agents, servants or anyone authorized by them from in any manner, collecting or demanding the maintenance charges from the members/flat owners of "VGN STAFFORD" residential complex for the periods from August 2021 to October 2021 and thereby continue violating the plaintiff's



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right to collect the same as per the maintenance agreement dated 21.10.2019;

c) For Permanent Injunction restraining the defendant from awarding the contract for maintenance of the "VGN STAFFORD" residential complex to any third party during the subsistence of maintenance agreement dated 21.10.2019;

d) and pass such further or other orders as this Hon'ble court may deem fit proper and thus render justice."

3. Pending that suit, the appellant herein terminated the agreement contract with the non-appellant, followed by the assignment of maintenance work to a new contractor. The grievance of the appellant is about the ignorance of the termination of the contract with the non-appellant and the assignment of work to the new contractor. In the order dated 13.09.2021, the learned Single Judge recorded subsistence of valid contract despite its termination. Challenge to the order dated 13.09.2021 has been made in view of the above.

4. The fact further reveals that subsequently, a detailed order was passed on 22.09.2021 and is under challenge. The learned Single Judge had directed the parties to sit across and to exchange the statement of accounts on or before 31st October, 2021. The direction aforesaid was made after taking note of the termination of the contract of the non-appellant and other development in the case.

5. The challenge to the said order has been made on the ground that despite the termination of contract with the non-appellant, the interim order dated 13.09.2021 was extended till 22.10.2021.

6. Learned counsel for the non-appellant submits that if the duration of the contract is taken into consideration, it was to expire in the month of October, 2021. He further submits that the amendment of the plaint challenging the order of termination was sought and permitted by Court on 22.09.2021 itself. In any case, the non-appellant is not eager to continue with the contract, but wants settlement of the accounts, so that due amount is paid without further delay. The non-appellant would not press for continuation of the agreement, though challenge to termination may be pressed, but the appellant should sit across with the non-appellant, as has been directed by learned Single Judge.



7. As regards settlement of accounts, learned counsel for the appellant has no issue, rather he is in agreement to settle the accounts.

8. In view of the above and in the changed circumstances, we dispose of these appeals, by modifying the orders dated 13.09.2021 and 22.09.2021 in the following terms:

(i) the non-appellant would not press the order dated 13.09.2021 for continuance of the contract with the appellant, though they have challenged the order of termination by amending the plaint and accordingly, while pressing the plaint for challenge to the order of termination of contract, they would not pray for continuance of the contract beyond 31st October 2021;

(ii) the work assigned to the new contractor may continue;

(iii) the appellant and the non-appellant shall sit across and exchange the statement of account so as to settle the accounts; and

(iv) the date given by the learned Single Judge expired on 31st October, 2021 and thus, the same is extended till 31st December, 2021.

9. The orders dated 13.09.2021 and 22.09.2021 are modified as above. There will be no order as to costs. CMP Nos.18474 and 18532 of 2021 are closed.

Sd/-

Deputy Registrar(CS)

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Sub Assistant Registrar

Kpl.

TO

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

OSA (CAD) Nos.108 & 110 of 2021

SSI (CO)
GN(01/12/2021)