



C.S.No.167 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2023

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.167 of 2023

O.A.No.757 of 2023 & A.No.4553 of 2023

1.Mahendra Babu P.J
2.A.K.Mohammed Hussain

.. Plaintiffs

Versus

1.Five Star Apartments Owners Welfare
Association – Anna Nagar West
Represented by its President
Mr.Vilvanan
Padi Kuppam Road
Anna Nagar West
Chennai – 600 040

2.The Executive Committee
Five Star Apartments Owners Welfare
Association – Anna Nagar West
Represented by its President
Mr.Vilvanan
Padi Kuppam Road
Anna Nagar West
Chennai – 600 040

3.S.Vigneswaran
4.V.Hariharan
5.J.Chidambara Perumal
6.K.Rajagopal



C.S.No.167 of 2023

7.J.Manoj

8.M.Raju

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9.DEC Infrastructure and Projects (India)

Private Limited

Represented by its Authorised Signatory

having its registered office at

47/370, 15th Main Road

Kathiravan Colony, Anna Nagar

Chennai – 600 040

10.M/s.Sai Sravanthi Infra Projects

Private Limited

Represented by its Authorised Signatory

P.Saikumar

having its registered office at 9-B

Akset Towers, TSD Velan Nagar Main Road

Arumbakkam, Chennai – 600 106

... Defendants

Prayer : Complaint filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of the Code of Civil Procedure, to pass a judgment and decree to :

- a) perpetual injunction restraining the defendants 1 to 8 from negotiating or entering into any agreement for reconstruction/redevelopment of Five Star Apartments, Padikuppam Road, Anna Nagar West Extension, Chennai – 600 040, contrary to the decision of the General Body held on 30.10.2022;



C.S.No.167 of 2023

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- b) mandatory injunction directing the 2nd defendant and its office bearers to give effect to the decision of the General Body taken on 30.10.2022 and take up reconstruction of the Five Star Apartments under the aegis of the 10th defendant;
- c) to appoint an Advocate/Judge Commissioner for the purpose of taking steps to give effect to the decision of the General Body dated 30.10.2022;
- d) to direct the defendants 3 to 8 to pay the cost of the above suit.

For Plaintiffs : Mr.Sharath Chandran

For Defendants : Mr.J.Deliban for D1
Mr.S.Sidhartha Vishnu for D2

JUDGMENT

This suit has been filed for permanent injunction restraining the defendants 1 to 8 from negotiating or entering into any agreement for reconstruction/redevelopment of Five Star Apartments, Padikuppam Road, Anna Nagar West Extension, Chennai – 600 040



C.S.No.167 of 2023

2. The crux of the issues in the entire suit is with regard to the selection of builders for demolition and reconstruction of the Five Star Apartments. It is the main contention of the plaintiff that the 10th defendant was selected in the General Body, when that being so, the executive committee is now supporting 9th defendant on various grounds. Therefore, the suit has been filed.

3. After hearing both sides at length, this Court is of the view that the issue has narrow campus. The learned counsel appearing for the first defendant association submitted that they will start the entire process afresh and the second defendant has also agreed to the same. The learned counsel for the plaintiff also submitted that if the same is done by the independent person, they have no issues.

4. Since the issue is with regard to selection of builders for reconstruction of the building, this Court is of the view that as the parties are agreeing to go for a fresh election by the independent person, in order to give quietus to the suit itself appoints Mr.T.Mohan, learned Senior Counsel as an



C.S.No.167 of 2023

Advocate Commissioner to commence the process afresh inviting applications from all the eligible builders for reconstruction of the apartments. The learned Advocate Commissioner is also at liberty to avail the service of any expert in the field for assistance. The fees of the Advocate Commissioner is fixed at Rs.1,50,000/-, apart from the actual expenses which may incur while appointing expert and publication etc., which has to be paid by the Association directly to the Advocate Commissioner and the Association is at liberty to collect the amount from all the members.

5. Let Mr.T.Mohan, learned Advocate Commissioner, appointed by this Court shall proceed further inviting applications by issuing publications in all important dailies both in vernacular as well as English. Let the process be completed by the learned Advocate Commissioner within a reasonable time. It is also made clear that reconstruction and demolition is imminent, since, the building is aged about 40 years and appears to be in a dilapidated condition. It is also seen the Corporation has issued notice, which is agreed by both sides. Such being the position, it is for the benefit of the respondents and in order to avoid untoward incident, all the members shall cooperate with the Advocate Commissioner appointed by this Court.



C.S.No.167 of 2023

6. Accordingly, the suit is disposed of. Consequently, connected applications are dismissed. No costs.

18.12.2023

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List of witnesses and documents examined and marked on the side of the plaintiffs and the defendants:

Nil

18.12.2023

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Internet : Yes

Index : Yes / No

Speaking order / Non Speaking order

To

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



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C.S.No.167 of 2023

N. SATHISH KUMAR, J.

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C.S.No.167 of 2023

18.12.2023