



A NO. 2864 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-07-2025

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THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

A.NO. 2864 of 2025 in

C.S.No.884 of 2013

V.Krishna Shankar
S/o.K.Venkataraman, No.10, New Colony, Tuticorin
628 003.

Applicant(s)

Vs

Sri Kapali Building Promoters Private Limited
Rep.by its Director Mr.Suresh, No.245/57, R.K.Mutt
Road, Mylapore, Chennai 600 004. and 3 Others

Respondent(s)

For Applicant(s):

M/s.B. Hari Krishnan

For Respondent(s):

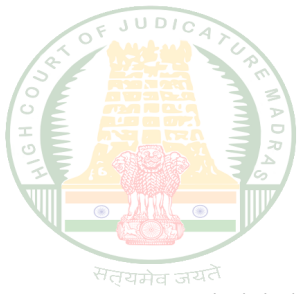
Ms.Meera Gnanasekaran for R1

Mr.Kuberan for

M/s.Rank Associates for R2 to R4

ORDER

This application has been filed by the plaintiff in O.S.No.6814 of 2019 seeking to withdraw the said suit and transfer it to the file of the Original Side of this Court and the issues therein to be examined along with C.S.No.884 of 2013 which is now pending before this Court.

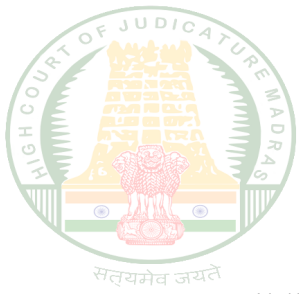


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2. It should also be mentioned that O.S.No.6814 of 2019 had been initially filed as C.S.No.713 of 2012 on the file of this Court and owing to the realignment of the pecuniary jurisdiction of this Court, it had been transferred to the City Civil Court and re-numbered as O.S.No.6814 of 2019 and is now pending before the XV Additional City Civil Court, Chennai.

3. In both the suits / O.S.No.6814 of 2019 and C.S.No.884 of 2013, the evidence had been recorded in entirety and both the suits are now at the stage of advancing arguments by the learned counsels, O.S.No.6814 of 2019, before the XV Additional City Civil Court and C.S.No.884 of 2013 before this Court.

4. Even before entering into a discussion on the facts, it would only be appropriate that the scope of Clause 13 of the Letters Patent is examined. Clause 13 is not an exercise of Ordinary Original Civil Jurisdiction, but an exercise of Extraordinary Original Civil Jurisdiction conferred on this Court. If the Court thinks proper, either on the agreement of the parties or for the **purposes of justice**, which reason should be recorded, transfer any suit falling within the jurisdiction of any other Court within the city of Chennai or even elsewhere and determine the issues therein by this Court. In the instant case, there is no agreement between the parties and therefore, the only other aspect which the Court has to examine is whether this application could be considered on the ground of "**purposes of justice**".



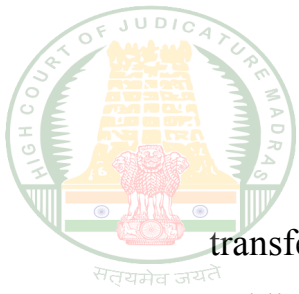
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5. The suit in C.S.No.884 of 2013 had been filed by M/s.Sri Kapali Building Promoters Private Limited, seeking a judgment and decree against the defendants therein to deliver vacant possession of the three numbers of flats in the ground floor, of which, two are in the ground floor of Suraj Towers and one in the ground floor of Chaand Towers and to direct the defendants to jointly or severally pay damages for use and occupation and also future damages.

6. It must be mentioned that both these apartment towers viz., Suraj Towers and Chaand Towers had been built by the plaintiff. The first defendant, could be termed as representing the owners, commonly called as the Owners' Association. The Court need not to traverse into the reasons why the suit had been filed, but could rest by stating that it revolves around handing over of built up flats back to the plaintiff by the first defendant.

7. O.S.No.6814 of 2019 which originally had been instituted as C.S.No.713 of 2012 had been filed by the applicant herein who claims title to that particular flat and further claims that he is a *bonafide* purchaser of the said flat which had been allotted by the second defendant viz., the Association who is the first defendant in C.S.No.884 of 2013.

8. The flat in question is different from the three flats which are the subject matter of C.S.No.884 of 2013. This point is pointed out by the learned counsel for the respondents herein who had raised objections for



transfer of the suit in O.S.No.6814 of 2019, from the file of the XV Additional City Civil Court to the file of this Court.

9. The learned counsel for the applicant stated that the issues overlap and though quite strictly the flats are different and schedules are different, but it all touches upon the right of the Association to either hold on to the three flats which are subject matter in C.S.No.884 of 2013 and the right to allot a flat to the plaintiff in O.S.No.6814 of 2019, on the basis of which, the plaintiff had purchased the flat.

10. The issues revolve around the right and obligation of the first defendant in C.S.No.884 of 2013 who is the second defendant in O.S.No.6814 of 2019. Incidentally, the builder had also been impleaded in O.S.No.6814 of 2019 as the first defendant. Even though the schedule of the flats are different, the parties would be benefited to. If there is a consistency in the judgments delivered and would certainly take umbrage if there is inconsistency in the views taken by two separate Courts.

11. This Court does not for a minute questions the jurisdiction and the competency of the XV Additional City Civil Court to examine the issues in O.S.No.6814 of 2019, but however, due consideration will have to be given as to the manner in which both the litigations are approached and a consistent finding will have to be given *vis-a-vis* the rights asserted by the parties to the suit, primarily, the builder, the Association and the plaintiff in



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O.S.No.6814 of 2019. It would only serve the **purposes of justice**, if the suits are heard together. The recording of evidence had been completed in both the suits. It is now on the learned counsels to advance arguments. The nature of the arguments advanced atleast by the Association would be the right of the Association to retain the three flats which is in the schedule of C.S.No.884 of 2013 and they would also be simultaneously asserting the right of the plaintiff in O.S.No.6814 of 2019, who had purchased a flat on allotment.

12. The entire issue therefore revolves around the rights and obligation of the Association in a particular Apartment complex or in this case 'Tower' to deal with either an individual flat or with the areas which are alleged to be common in which construction has been put up and dealt with by the Association. The entire *inter se* relationship between the builder and the Association in all these regards will have to be viewed and in this connection, it would hardly serve the ends of justice, if two inconsistent views are taken in both the suits one by this Court and other by the City Civil Court.

13. Though the cause of action might be different, the facts leading to the cause of action commonly called a bundle of facts more or less overlap with each other and since there is no requirement for any further evidence to be recorded and only arguments are to be advanced, I hold that it would serve the **purposes of justice**, if the arguments in both the suits are heard



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together. Taking that view into consideration, I direct withdrawal of the suit in O.S.No.6814 of 2019 from the file of XV Additional City Civil Court, Chennai, and consequential transfer to the file of this Court to be heard by this Court parallelly along with C.S.No.884 of 2013.

14. The parties are same and they litigate under the same status and atleast the builder and the Association who are parties in both the suits have asserted their independent rights which will have to be adjudicated and it would hardly serve the ends of justice, if the rights are adjudicated in a different manner by this Court and in a different manner by the City Civil Court. Consistency is required in the reasonings on the issues. To ensure that the consistency is maintained, I hold that it would only be appropriate that the suit in O.S.No.6814 of 2019 is withdrawn and transferred to the file of this Court.

15. In view of the above stated reasons, this application is allowed. The Registry to address the Registrar of the City Civil Court, Chennai, to properly index the records in O.S.No.6814 of 2019 which is pending before the XV Additional City Civil Court, Chennai and forward them to the file of this Court.

16. List both the suits under the caption "for arguments" after the aforementioned process is completed by the Registry.

29-07-2025

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To

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1. Sri Kapali Building Promoters Private Limited
Rep.by its Director Mr.Suresh, No.245/57, R.K.Mutt Road,
Mylapore, Chennai 600 004.
2. Suraj and Chaand Towers Residents Welfare Association
Rep.by its President Mr.K.Venkgatraman, No.128, Lattice Bridge Road,
Thiruvanmiyur, Chennai 600 041.
3. M/s.Portrucks Equipments Private Limited
rep.by Mr.Pandian, No.128, Lattice Bridge Road, Thiruvanmiyur, Chennai
600 041.
4. Mrs.Usha Raman
Advocate, Ground Floor, Suraj Towers, No.128, Lattice Bridge Road,
Thiruvanmiyur, Chennai 600 041.



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C.V. KARTHIKEYAN, J.

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