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CRP. Nos.2848 & 2851 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:22.08.2025

Pronounced on: 29.08.2025

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

**CRP. Nos.2848 & 2851 of 2025
and CMP. Nos.16106 & 16117 of 2025**

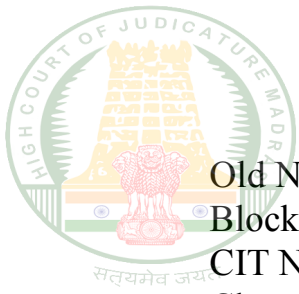
1.Bougainvilla Apartment Welfare Association,
Represented by the President Mr.Deivarayan

2.Joint Venture and Executive Committee,
Bougain Villa Apartments,
Represented by its Members,
Anna Nagar East, Chennai-600 102.

Petitioners in both CRPs

Vs

- 1.M/s.P.L.Umayal
- 2.M/s.Nu-tech Associates,
Nu-tech Lushington,
Old No.41, New No.76,
Block 1, 2nd floor, 1st Main Road,
CIT Nagar, Nandanam,
Chennai – 600 035.
- 3.M/s.Nu tech Associates,
Represented by its Director,
Mr.Nagi Reddy,
Nu-tech Lushington,
Old No.41, New No.76,
Block 1, 2nd floor, 1st Main Road,
CIT Nagar, Nandanam,
Chennai – 600 035.
4. M/s. Nu-tech Realty Projects Private
Limited, Nu-tech Lushington,



Old No.41, New No.76,
Block 1, 2nd floor, 1st Main Road,
CIT Nagar, Nandanam,
Chennai – 600 035.

5.M/s. Nu-tech Realty Projects Private Limited,
Represented by its Chairman,
Mr.Nagi Reddy, Nu-tech Lushington,
Old No.41, New No.76,
Block 1, 2nd floor, 1st Main Road,
CIT Nagar, Nandanam,
Chennai – 600 035.

6. M/s. Nu-tech Realty Projects Private
Limited, Represented by its Managing
Director, Mr.Tej Narasa Reddy,
Nu-tech Lushington,
Old No.41, New No.76,
Block 1, 2nd floor, 1st Main Road,
CIT Nagar, Nandanam,
Chennai – 600 035.

Respondents in both CRPs

COMMON PRAYER: These Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 19.02.2025 made in I.A. No.3 of 2023 and I.A. No.4 of 2024 in O.S. No.7060 of 2022 on the file of III Assistant City Civil Court, Chennai.

For Petitioners : Mr.P.Subba Reddy in both CRPs
For Respondents : Mr.K.Pattabhi in both CRPs

COMMON ORDER

The defendants 1 and 2 in O.S.No.7060 of 2022 are the revision petitioners, aggrieved by the dismissal of common order in I.A.No.3 of

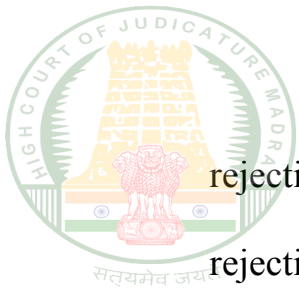


2023, in and by which, the defendants 1 and 2 sought for rejection of the
plaint and I.A.No.4 of 2024, in and by which, the defendants 1 and 2
sought for of permission to receive additional documents.

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2. I have heard Mr.P.Subba Reddy, learned counsel for the revision
petitioners and Mr.K.Pattabhi, learned counsel for the first respondent/
plaintiff.

3. The learned counsel for the petitioners would invite my
attention to the relief sought for in the suit and state that though the
plaintiff has sought for a declaration that the joint venture entered into by
all the defendants is not legally valid and to restrain defendants 3 to 7
from demolition and redevelopment of the Apartments based on the joint
venture. Taking me through the plaint averments, the learned counsel
would contend that even from a reading of the plaint, it is clear that there
is no joint venture agreement in place. Therefore, it is the contention of
the learned counsel for the petitioners that there is absolutely no cause of
action for filing the suit and the plaint is therefore liable to be rejected
and the Trial Court has unfortunately misconstrued the grounds on which



rejection was sought for and erroneously dismissed the application for rejection of the plaint.

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4. As regards the prayer seeking damages, the learned counsel for the revision petitioners would state that the defendants 1 and 2 have no privity of contract with the plaintiff and the alleged claim of loss of rentals cannot be sustained as against the defendants. Therefore, according to learned counsel for the petitioners, none of the reliefs sought for are available for the plaintiff and the plaint is liable to be rejected under Order VII Rule 11 (a) and (d) of CPC.

5. Per contra, Mr.K.Pattabhi, learned counsel for the contesting first respondent/plaintiff, would submit that the Trial Court has in and by a well-considered order dismissed the Application for rejection of the plaint and the same does not warrant interference. The learned counsel would also state that there are other defendants in the suit and the first and second defendants alone cannot seek for rejection of the plaint and such partial rejection is impermissible.



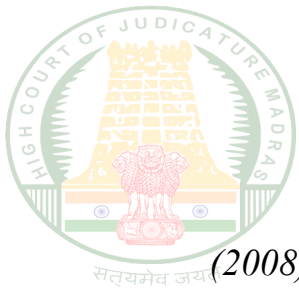
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6. As regards the joint venture, the learned counsel for the first respondent would state that the provisions of Tamil Nadu Apartment Ownership Act, 1994 alone would apply to the suit as the cause of action for the suit has arisen in the year 2022, before the new Tamil Nadu Apartment Ownership Act 2022 came into force. It is therefore the contention of the learned counsel for the first respondent that the plaint would have to be tested only in the light of the then prevailing statute.

7. The learned counsel would also state that the relief of compensation has been sought for as against the defendants 1 and 2 and it is a matter for evidence. Lastly, he would contend that an application for rejection of the plaint can take into account only the averments and allegations in the claim and no other extraneous material. He would therefore contend that the defendants cannot traverse beyond the plaint averments and allegations and seek rejection of the plaint.

8. The learned counsel would rely on the following decisions:

(i) *Ambalal Sarabhai Enterprises Ltd vs Amrit Lal & Co. and another*, reported in (2001) 8 SCC 397;



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(ii) *Kamala and others vs KT.Eshwara SA and others*, reported in (2008) 12 SCC 661; and

(iii) *Madhav Prasad Aggarwal and another vs Axis Bank Limited and another*, reported in (2019) 7 SCC 158.

9. The Trial Court, after due inquiry has found that the revision petitioners have attempted to fall back on the repeal of Tamil Nadu Apartment Ownership Act 1994, thereby rendering the suit itself invalid and finding that the cause of action pleaded by the plaintiff is a mixed question of fact and law and cannot be summarily decided in an application seeking rejection of plaint, dismissed the application.

10. I have carefully considered the submissions advanced by the learned counsel on either side.

11. In *Ambalal Sarabhai' case*, (referred herein supra), the Hon'ble Supreme Court held that Section 6 of the General Clauses Act saves a wide range of proceedings and Courts have to scrutinize and find whether a person under a repealed statute had any vested right and if he



had, then the pending proceedings would be saved. The said decision arose under Rent Control proceedings and the right of the landlord to evict a tenant in a case which was pending when the Act came to be repealed. I do not see how this decision is in any way helpful to the plaintiff.

12. In *Kamala and others' case*, (referred herein supra), the Hon'ble Supreme Court held that for applying Order VII Rule 11 CPC, conclusions must be drawn from the averments made in the plaint and there cannot be any addition or subtraction and no amount of evidence can be looked into.

13. In *Madhav Prasad Aggarwal's case*, (referred herein supra), the Hon'ble Supreme Court held that the plaint as presented must either proceed as a whole or be rejected as a whole, but not in part.

14. Even assuming the case of the plaintiff seeking to declare the joint venture agreement is not maintainable in view of the averments in the plaint that there has been no joint venture agreement entered into in



the first place, but when there is a relief seeking compensation for alleged loss of rentals, the plaint cannot be rejected in part. The issue whether there was any privity of contract or whether the loss of rental income to the plaintiff was on account of any act or omission of the defendants is all a matter for evidence and in an application of Order VII Rule 11 CPC, the said contentions cannot be gone into.

15. Therefore, applying the ratio laid down by the Hon'ble Supreme Court in *Madhav Prasad Agarwal's case*, (referred herein supra), I do not see how the plaint can be rejected in part or piece meal. The parties have to necessarily undergo the rigors of trial and establish their respective contentions.

16. I do not find any perversity or illegality in the findings arrived at by the Trial Court dismissing the application for rejection of the plaint.

17. Coming to the other revision, the defendants have sought to introduce certain documents. The Trial Court has not foreclosed the right of the defendants. In fact, in and by the impugned order in IA.No.3 of



2023, the Trial Court has only found that defendants 1 and 2 who sought to file additional documents have not even filed the written statement and therefore, the question of invocation of Order VIII Rule 1A(3) does not even arise. The Trial Court has reserved the right for the defendants 1 and 2 to produce the original documents along with the written statements. Therefore, I do not see how this order is calling for interference on Article 227 of the Constitution of India. The Trial Court has clearly kept an avenue open to the petitioners to produce the documents along with the written statement. I do not see any perversity or illegality in the set findings of the Trial Court as well.

18. In fine both the Civil Revision Petitions are dismissed. Connected Miscellaneous Petitions are also dismissed. No costs.

29.08.2025

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Index : Yes / No
Internet : Yes / No

To:
The III Assistant City Civil Judge, Chennai



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P.B.BALAJI, J.,

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Pre-delivery order in
CRP. Nos.2848 & 2851 of 2025
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