



A.No.3676 of 2025
in C.S.No.108 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

A.No.3676 of 2025
in C.S.No.108 of 2025

Association of Vasanth Apartment Owners,
Rep. by its General Secretary,
100 Feet Bye-Pass Road, Velachery,
Chennai – 600 042.

... Applicant/6th Defendant

..Vs..

1. K.P.Ibrahim Siraj
2. Dr.N.Thirumurthy
3. Swarnakili Ammal
4. R.Balachander
5. R.Pratabchander
6. R.Rajeshchander
7. The Chennai Metropolitan Development
Authority, Rep. by its Member Secretary,
No.1 Gandhi Irwin Road,
Egmore, Chennai – 600 006.
8. The Greater Chennai Corporation,
Rep. by its Commissioner,
Rippon Buildings, Chennai – 600 003.

... Respondents



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Prayer: This application is filed under Order XIV Rule 8 of the Original Side Rules r/w Order VII Rule 11 (a) & (d) r/w Section 151 of CPC, seeking to reject the plaint in the subject suit in C.S.No.108 of 2025 and also order the cost of the litigation in favour of the defendant No.6.

For Applicant : Mr.N.Subramaniyan

For Respondents : Mr.T.Sai Krishnan for R1

Mr.T.S.Raja Mohan for R2, R4, R5 & R6
R3 – Service Awaited

Mr.R.Thamarai Selvan for R8

ORDER

This application has been filed under Order VII Rule 11 of CPC by the sixth defendant in the above suit seeking rejection of plaint in C.S.No.108 of 2025.

2 Brief averments of the application are as follows:

The applicant is the General Secretary of the applicant's Association namely Association of Vasanth Apartment Owners, who is the



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sixth defendant in the suit. The first respondent/plaintiff has filed the present suit against the defendants for the relief of permanent injunction restraining the defendants from evicting the plaintiff from the suit property except under due process of law. In fact there is no cause of action for the suit, since the Division Bench of this Court already vide its order dated 01.04.2025 ordered for demolition, holding that the entire buildings is unauthorised construction. Against the said directions of the Division Bench of this Court, the first respondent/plaintiff filed a review application and the same is yet to be numbered. Therefore after filing of the review application, the first respondent/plaintiff cannot file the present suit without any fresh cause of action.

2.1 The first respondent/plaintiff has admitted that he is the tenant and there is no subsisting lease agreement and therefore he has no *locus standi* to file this suit under the capacity of tenant. The first respondent/plaintiff being a tenant could not challenge the order of demolition and his remedy is before the Landlord only and merely because



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he spent his hard earned money and life savings for the building, it does not mean that his interest should be safeguarded even at the cost of illegalities.

2.2 Initially the applicant/6th defendant filed W.P.No.29458 of 2010 to remove/demolish the illegal constructions of the subject property. This Court vide its order dated 21.06.2012 directed the authorities to consider the representation of the applicant, based on which, the CMDA issued lock and seal notice. Against which, the Promoter one M.Rajamanickam approached the Government by way of an appeal, which was strongly opposed by the applicant/6th defendant. Thereafter citing the pendency of the above appeal before the Government, the first respondent/plaintiff filed W.P.No.13891 of 2014 and obtained order dated 21.05.2014 protecting his right till the disposal of the appeal. Subsequently the appeal has been disposed of directing the appellants therein/landowners to get revised permission within a period of three months, failing which, CMDA should take action as per the Act. Against which, neither the applicant nor the first respondent/plaintiff has preferred any appeal and



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hence the order attained finality.

2.3 Even though the Writ Court passed an order, the authorities have not complied with the same so far and has not taken any steps to demolish the unauthorised construction. Therefore the applicant/6th defendant filed W.P.No.729 of 2025 before this Court to remove the illegal construction and the Division Bench of this Court vide order dated 01.04.2025 directed the CMDA to pass orders by directing the respondents 8 to 11 in the Writ Petition who are the defendants 1, 3 to 5 to demolish the entire suit building within a period of two weeks. As against the said order, the first respondent/plaintiff has filed review application along with petition seeking leave to file review application and the same is yet to be numbered. Thereafter the first respondent/plaintiff filed the present seeking the relief as stated *supra*. Therefore it is clear that there is no cause of action for the suit and hence the plaint is liable to be rejected.



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3 The brief averments of the counter filed by the first respondent/plaintiff are as follows:

3.1 The applicant/6th defendant has filed this application with false averments and the claim of *res judicata* cannot be decided through this application.

3.2 The order in W.P.No.729 of dated 01.04.2025 was obtained without impleading the first respondent/plaintiff as party. The proceedings under the Town and Country Planning Act will not nullify the lawful rights of the tenant in possession. The first respondent/plaintiff has been in possession of the ground floor since 2008 and paid rent to the successive owners including the first defendant and holds valid trade, GST, fire and other required license. Further the first respondent/plaintiff has invested over Rs.1.5 Crores towards renovation and continues to operate a lawful restaurant employing 25 persons. The absence of a registered lease deed does not bar the maintainability of a civil suit for protection against



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unlawful dispossession. The present application under Order VII Rule is filed only to defeat the plaintiff's tenancy right by suppressing the plaintiff's lawful tenancy. The applicant filed Writ Petition and got an order of demolition and after coming to know about the same the first respondent/plaintiff filed review petition and the same is pending. The possession of the first respondent/plaintiff has been admitted by the applicant/6th defendant and while so without impleading the plaintiff, the applicant/6th defendant got an order of demolition. The plaintiff has clearly pleaded cause of action for the suit and none of the grounds for rejection of plaint were found to be attracted. Therefore this application is liable to be dismissed.

4 This Court heard the learned counsel appearing on either side and perused the records.

5 In this case the first respondent/plaintiff is the tenant occupying the ground floor of the disputed property. It is also an admitted



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fact that there are deviations in some portions, which are constructed without any approval and thereby several Writ Petitions have been filed by the respective parties. In W.P.No.29458 of 2010 filed by the applicant/6th defendant, the first respondent/plaintiff is a party and the plaintiff also filed W.P.No.13891 of 2014 and all the Writ Petitions were disposed of.

6 Directions were issued by the Government in the appeal filed by the applicant/6th defendant, to the parties to get revised plan approval, failing which, CMDA was directed to take appropriate action as per the Act. Thereafter neither the revised plan approval was obtained as directed by the Government nor any appeal is filed against the order passed by the Government. Hence the applicant/6th defendant filed W.P.No.729 of 2025 to demolish the entire constructions and the same was allowed, where the first respondent/plaintiff was not party to the proceedings. The first respondent/plaintiff, after coming to know about the order of demolition passed by this Court in W.P.No.729 of 2025, filed review application and the same is pending. In the Meantime, again he filed this suit alleging that



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the defendants are attempting to dispossess the plaintiff without following the due process of law.

7 The plaintiff pleaded in the cause of action para that cause of action arose on 01.04.2025, when this Court passed the orders in W.P.No.729 of 2025 filed by the applicant/6th defendant, wherein the defendants 1 and 3 to 5 have filed their counter agreeing for demolition of entire building without disclosing the fact that ground floor is approved and the plaintiff is a lawful tenant. But, the fact is that already the first respondent/plaintiff filed review application challenging the order of demolition and the same is pending before the Division Bench of this Court for consideration and in the meantime, he filed the present suit seeking the relief of permanent injunction restraining the defendants from evicting the first respondent/plaintiff from the suit property except under due process of law.

8 It is an admitted fact that the defendants got order of this Court in their favour to demolish the disputed property and hence the



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prayer sought for in the present suit restraining the defendants from evicting the plaintiff from the suit property, including by way of demolition of the suit property cannot give any fresh cause of action. The Division Bench of this Court passed the order directing the authorities to demolish the entire property and the same is under challenge through review application filed by the plaintiff. Therefore when the Division Bench of this Court seized of the matter, once again the plaintiff cannot approach this Court by filing the present suit without any fresh cause of action.

9 The learned counsel appearing for the applicant/6th defendant would submit that there is no cause of action for the suit and already the Division Bench of this Court has passed order to demolish the entire building and the appeal filed by the respondent/plaintiff was disposed of by the Government by permitting them to approach the authorities for revised plan, but no steps were taken to get revised plan. Therefore cause of action arose to file the suit. The Government officials have not tried to evict the first respondent/plaintiff illegally and only based on the Court order,



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they have to demolish the building. The Court order is consequent to the order passed by the Government in the appeal filed by the plaintiff. After knowing the order of Government for revised plan, without applying for revised plan, the first respondent/plaintiff filed this suit. The demolition order has been passed by the Division Bench of this Court and hence question of eviction under due process of law would not arise. Hence there is no cause of action for the suit. Further the learned counsel appearing for the applicant relied on the following judgments of the Ho'ble Supreme Court and the various High Courts.

1. *(1991) 3 SCC 341 (Pratibha Co-operative Housing Society Ltd., and Another vs. State of Maharashtra and Others)*
2. *MAT 2279 of 2023 dated 28.06.2024 (Bijay Biswakarma Vs. Rajkumari Devi Singh & Ors)*
3. *2025 SCC OnLine Bom 133 (Jaysingh Revaji Patil Vs. The Municipal Corporation, Malegaon)*
4. *2024 SC OnLine Cal 11867 (Suzana Anthony and Ors vs. Sk.Ziauddin and Ors)*
5. *2002 SCC OnLine AP 843 (Arvind L.Abhyanakar vs. Municipal Corporation of Hyderabad)*



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10 On a careful perusal of the judgments it is clear that an occupier or tenant of the disputed premises has neither any right to participate in demolition proceedings or prefer any appeal challenging the order of demolition and the tenant of the building has remedy only against a landlord and not against the local body, which ordered demolition. Further merely because the third parties purchased the flats by spending their hard earned money and life savings, it does not mean that their interest should be safeguarded even at the cost of illegalities and the builder having constructed without permission and in violation of law, cannot take the support of the purchasers to protect the illegal and unauthorised construction and content that third party interests are created.

11 The learned counsel appearing for the first respondent/plaintiff would submit that the plaintiff is not a party to the writ proceedings in W.P.No.729 of 2025 and without impleading him as party, the order was obtained fraudulently, by suppressing the tenancy of the



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plaintiff. Since the defendants in the suit attempted to demolish the building, cause of action arose and the plaintiff filed this suit. He also relied on the decisions of the Hon'ble Supreme Court reported in 2025 SCC OnLine SC 1425 (*Pandurangan vs. T.Jayarama Chettiyar and Another*) and 2023 SCC OnLine SC 2459 (*Keshav Sood vs. Kirti Pradeep Sood and Ors*).

12 Even though, the learned counsel for the first respondent/plaintiff placed reliance on the decisions of the Hon'ble Supreme Court stating the the plea of *res judicata* cannot be decided at the threshold, a careful perusal of the said judgments reveal that the facts of those cases are distinguished from the present case on hand. In the present case, it is an admitted fact that the first respondent/plaintiff is a tenant and it is also an admitted fact that the disputed building is unauthorised construction and finding deviations on the same, the Division bench of this Court ordered for demolition of the entire building. An occupier or tenant of the disputed premises has neither any right to participate in demolition proceedings or prefer any appeal challenging the order of demolition.



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Further the building having constructed without permission of the Corporation and in violation of the law, cannot take support of the purchasers to protect the illegal and unauthorised construction and content that third party interests are created in the building.

13 In the pleadings, nowhere the plaintiff revealed the real cause of action and even the prayer in the suit is only not to demolish the building except under due process of law. Admittedly the order passed by the Division Bench of this Court for demolition is in force and hence under these circumstances, any demolition made by the authorities pursuant to the order passed by this Court will definitely under due process of law. Therefore such prayer cannot be maintained without any cause of action.

14 As discussed above, there is no real cause of action and mere clever drafting of pleadings to make cause of action is not sufficient to make real cause of action. Therefore this Court holds that there is no cause of action and the plaint is liable to be rejected.

15 Accordingly this application is allowed and the plaint in



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16 However, the main contention of the first respondent/plaintiff is that he invested more than Rs.1.5 Crores for renovation and to find alternative accommodation he wants sometime and therefore considering the huge amount invested by the first respondent/plaintiff, it is appropriate to grant time to the first respondent/plaintiff to vacate the premises.

17 Accordingly six months time is granted to the first respondent/plaintiff to vacate the subject premises, subject to outcome of the Review Application pending before the Division Bench of this Court.

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