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W.P.No.22380 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-01-2026

CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.P.No.22380 of 2023
AND
W.M.P.Nos.21774 and 21775 of 2023**

M/s.Virgo Realtors Private Limited,
Represented by its Managing Director
T. Shyam Prasad,
“Plaza House”, New No.5, Old No.3,
Thirumurthy Street, T. Nagar,
Chennai - 600 017.

Petitioner(s)

Vs

1. M/s.L & T Finance Limited,
Represented by its Director,
15th Floor, P.S. Srijan Tech Park,
Flat No.52, Block DN, Section V,
Salt Lake City, Kolkata - 700 091.

2.Phoenix ARC Private Limited,
Trustee of Phoenix Trust, FY22-16,
Represented by its Director,
Dani Corporate Park, V Floor,
158, CST Road, Kalina, Santa Cruz (E),
Mumbai - 400 098.

3.The Registrar,
National Company Law Tribunal,
Chennai Bench-I, Corporate Bhavan.
Rajaji Salai. Chennai - 600 001.

Respondents



W.P.No.22380 of 2023

WMP No. 21775 of 2023

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M/s.Virgo Realtors Private Limited,
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Respondent(s)

WMP No. 21774 of 2023

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Chennai - 600 017.

Petitioner(s)

Vs



W.P.No.22380 of 2023

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3. The Registrar,
National Company Law Tribunal,
Chennai Bench-I, Corporate Bhavan.
Rajaji Salai. Chennai - 600 001.

Respondent(s)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in connection with the impugned order dated 05.08.2022 made in I.A.No.824 (CHE) of 2022 in C.P.(I.B.) 71 (CHE) of 2022 pending on the file of the 3rd respondent and quash the same as illegal and against the provision of Section 28 and Section 17 of the Registration Act and consequently direct the 3rd respondent to dispose I.A. No. 824 (CHE) of 2022 in C.P. (I.B) 71 (CHE) of 2022 in accordance with law after giving due opportunity to the petitioner to submit their objections and hearing the same.

For Petitioner :	Mr.P.C.Harikumar for M/s.P.C.Harikumar Associates
For Respondents-1 & 2:	Mr.Srinath Sridevan, Senior Counsel for Ms.Aishwarya S.Nathan



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ORDER

(Order of the Court was made by C.V.KARTHIKEYAN, J.)

The Writ Petition has been filed in the nature of Certiorarified Mandamus questioning the order of the third respondent, National Company Law Tribunal dated 05.08.2022 in I.A.No.824 (CHE) of 2022 in C.P.(I.B.) 71 (CHE) of 2022 and to interfere with the same.

2. M/s.L & T Housing Finance Limited had advanced loan to the writ petitioner and subsequently by a Deed dated 29.03.2019, had assigned the rights which had accrued under the said loan to the first respondent/L & T Finance Limited. Subsequently, on 29.03.2022, the first respondent/L & T Finance Limited had again assigned the rights which had accrued under the said deed of loan to the second respondent/Phoenix ARC Private Limited.

3. The first respondent had initiated CP(IB)/71(CHE)/2022 against the writ petitioner before the third respondent/National Company Law Tribunal, Chennai Bench-I. The writ petitioner had been set *ex-parte* by an order dated 12.04.2022. The writ petitioner then filed an application to set aside the *ex-parte* order on 26.05.2022. This application to set aside the *ex-parte* order



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in I.A.No.750(CHE)/2022 and another interlocutory application in I.A.No.824(CHE)/2022 which had been filed by the first respondent herein to substitute and recognise the second respondent/Phoenix ARC Private Limited to continue the proceedings before the National Company Law Tribunal, which came up for consideration before the Tribunal on 05.08.2022. On 05.08.2022, taking note of Clause 17.4 of the Loan Agreement dated 23.06.2017, which permitted assignment of the loan, the Tribunal allowed the substitution. Challenging that particular order, the writ petitioner had filed a regular appeal before the National Company Law Appellate Tribunal at Chennai in Company Appeal (AT)(CH)(Ins) No.389/2022 and had also filed connected interlocutory applications.

4. The learned counsel for the appellant before the National Company Law Appellate Tribunal had however taken a conscious decision to withdraw the appeal and that representation was noted by order dated 04.11.2022 leaving it open to the appellant to raise all factual and legal pleas before the competent forum in the manner known to law and in accordance with law, if it so desires or is so advised. Thereafter, the writ petition has been filed challenging the original order of the National Company Law Tribunal permitting substitution of the second respondent to continue with C.P.No.71



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of 2022. But, however the writ petitioner remained *ex-parte* and he had filed I.A.No.750 (CHE)/2022 to set aside that particular *ex-parte* order.

5. We are informed that in C.P.No.71 of 2022, arguments had also been advanced by both sides. But however, we are also presented with an order dated 12.02.2022 of the National Company Law Tribunal, Chennai Bench-I, which we would extract in entirety, since it has a direct bearing on the entire issue:

“ORDER

The Applicant is represented by the Ld. Counsel Mr.S.Charuhasan and the Respondent is represented by the Ld. Counsel Ms.Sagarika through video conferencing mode.

Ld. Counsel states that he does not want to pursue the matter IA/750(CHE)/2022. Ld. Counsel states that he has filed another application, which is yet to be numbered.

Hence, IA/750(CHE)/2022 dismissed for non-prosecution.

-sd-

*[L.N. GUPTA]
MEMBER (TECHNICAL)
AR*

-sd-

*[JUSTICE RAMALINGAM SUDHAKAR]
(PRESIDENT)”*



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6. It is thus seen that the writ petitioner had not prosecuted I.A.No.750 (CHE)/2022. But however, we are also note that in the written arguments filed by the petitioner herein on 06.06.2025, he had clearly stated that he was permitted to file a response to C.P.No.71 of 2022 and therefore, he had filed written submissions. The matter therefore is now being adjudicated before the National Company Law Tribunal and it may not be proper or appropriate on our part to interfere with the said proceedings. The competent judicial forum is now seized of the entire issue. Nothing further survives for adjudication in the writ petition, since the writ petitioner himself had withdrawn I.A.No.750 (CHE)/2022 and the same has been dismissed for non-prosecution as early as on 12.12.2022, which fact had not been stated in the affidavit filed in support of the writ petition.

7. The Writ Petition, therefore, stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

(C.V.KARTHIKEYAN J.) (K.KUMARESH BABU J.)
[23.01.2026]
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Index : Yes / No
Neutral citation : Yes / No
Speaking / Non-speaking order
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C.V.KARTHIKEYAN J.
AND
K.KUMARESH BABU J.

rsi

To

The Registrar,
National Company Law Tribunal,
Chennai Bench-I,
Corporate Bhavan.
Rajaji Salai. Chennai - 600 001.

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