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Arbitration Application No.1064 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2026

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Arbitration Application No.1064 of 2025

Sunil Kurian

... Applicant

vs.

1.The Metrozone Apartment Owners Association,
represented by its President,
Having office at
L002, No.44, Pillaiyar Koil Street,
Off Jawaharlal Nehru Road,
Anna Nagar, Chennai – 600 040.

2.J.Sathiyamurthy

3.Dr.P.Pandiyan

... Respondents

Application filed under Order XIV Rule 8 of Original Side Rules read with Section 9(1)(ii)(e) of the Arbitration and Conciliation Act, 1996, praying to stay the show cause notice dated 21.04.2025 issued by the second respondent suspending the applicant.

For Applicant : Mr.T.N.Rajagopalan

For Respondents : Mr.Rahul Balaji
for Mr.R.Ganesh Ram



ORDER

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This application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 [for brevity 'the Act'] seeking stay of the show cause notice dated 21.04.2025 issued by second respondent whereby the applicant was suspended from his position as the Executive Committee Member of the association.

2. Heard learned counsel on either side.

3. The main grievance expressed by learned counsel for applicant is that when the show cause notice was issued by second respondent, apart from calling for explanation from the applicant, he was suspended and that the same goes against the procedure provided under Clause 3.2.3 of the bye-laws of the Association. Learned counsel submitted that before suspension, seven (7) days notice must be given and explanation must be called for and only thereafter, the applicant could have been suspended. Since this procedure has not been followed, the applicant has sought stay of the order of suspension pursuant to the show cause notice dated 21.04.2025. The respondents have filed their counter affidavit.



4. Learned counsel for respondents submitted that the petitioner has not been suspended from his post as a member and the suspension order confines itself only to the petitioner participating in the meeting in his capacity as an Executive Committee Member. Learned counsel submitted that the procedure provided under Clause 3.2.3 will apply only in the case of expulsion of a member and it will not apply in the case of suspension. Learned counsel further submitted that the period of term of office of all the Executive Committee members is coming to an end on 29.03.2026.

5. This Court carefully considered the submissions made on either side and the materials available on record.

6. In the considered view of this Court, if this Court interprets Clause 3.2.3 of the bye-laws and renders a finding, there shall be nothing left for the Arbitral Tribunal to decide with regard to the scope of the show cause notice issued against the petitioner. Therefore, if any interim order is passed one way or the other, it will effectively foreclose any further decision to be taken by the Arbitral Tribunal. Hence, it goes beyond the objective of interim protection provided under Section 9 of the Act. Therefore, this Court is not inclined to go into the scope of Clause 3.2.3 of the bye-laws and render any finding in this application.



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N.ANAND VENKATESH, J.

gm

7. It is also seen that the applicant was only suspended as an Executive Committee Member and he has not been suspended from the membership of the association. Therefore, the petitioner can always participate in the meeting as a member of the association and the only restriction is that he cannot participate in his capacity as Executive Committee Member. In any case, the tenure is coming to an end on 29.03.2026 and beyond the period, the term of office of the Executive Committee Members will come to an end. Thereafter, a fresh election has to be conducted for selection of the Executive Committee Members and other office bearers. In such a scenario, this Court is not inclined to exercise its jurisdiction under Section 9 of the Act since the balance of convenience and the issue of irreparable loss and hardship is not in favour of the applicant. Therefore, all these issues can be raised before the Arbitral Tribunal, which has already been constituted by this Court while passing an order in Arb.O.P.No.87 of 2025 dated 23.01.2026.

This application is disposed of in the above terms.

23.01.2026

NCC: Yes/No

gm

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