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C.R.P.No.3776 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.02.2026

PRONOUNCED ON : 26.02.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3776 of 2025
and C.M.P.No.29189 of 2025

Hiranandani Amalfi Owners Association
Rep. by its Secretary
House of Hiranandani
5/63, Rajiv Gandhi Salai,
Egattur Village,
Chengalpattu District – 600 130

... Petitioner

vs.

Hiranandani Realtors Private Limited
Rep. by its Manager (Legal)
Having its Registered Office at
Olympia, 2nd Floor, Central Avenue,
Hiranandani Gardens, Powai, Mumbai – 400 076

And its Tamil Nadu Regional Office at
5/63, Old Mahabalipuram Road,
Egattur Village, Thalambur Post,
Thiruporur Taluk, Chengalpattu District,
Chengalpattu – 600 130

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint and further proceedings in O.S.No.105 of 2024 filed by the respondent, on the file of the District Munsif cum Judicial Magistrate at Thiruporur.



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For Petitioner : Mr.Rahul Balaji

For Respondent : Mr.Krishna Ravindran

ORDER

By consent of the parties, the main civil revision petition is taken up for hearing.

2. The Civil Revision Petition is filed seeking to strike off the plaint filed by the respondent in O.S.No.105 of 2024 on the file of the District Munsif-cum-Judicial Magistrate Court, Thiruporur.

3. The respondent herein filed a suit in O.S.No.105 of 2024 against the petitioner seeking permanent injunction restraining the Petitioner/Defendant-Association from illegally occupying and obstructing the usage of the common passages which are not within the undivided share of land belonging to the Defendant-Association around the schedule mentioned property namely, Amalfi Tower. The respondent also sought for permanent injunction restraining the petitioner/defendant from illegally occupying and obstructing the usage of the car parks in the integrated

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basement area allotted to the other purchasers in the neighbouring towers as mentioned in Item No.2 of the suit schedule.

4. According to the respondent/plaintiff, 120 acres of land at Egattur Village, Thiruporur Taluk, Chengalpattu District was originally purchased by Stonewood Constructions Private Limited during the years 2005-2006. The respondent/company had become absolute owner of the property under a scheme of amalgamation approved by High Court of Mumbai, by order dated 13.02.2009 passed in Company Petition Nos.878 and 879 of 2008. The respondent is engaged in development of real estate project, which is known as 'House of Hiranandani, Egattur'.

5. It is stated that project is envisaged as a larger integrated development under a Common Scheme of Development by providing common roads, access, passages, facilities, club houses and other infrastructure for the benefit of all the owners/purchasers/occupants of the entire development. It is further stated that the respondent is engaged in developing the property in a staggered manner in various Sectors/Cluster/Phases. In the first sector, the respondent developed six



residential towers and in the second sector, it developed seven residential towers including the tower called 'Amalfi'.

6. The petitioner/defendant is the Association of purchasers of the Apartment in Tower called 'Amalfi'. It is also claimed by the respondent that the Members of the Petitioner-Association were provided with all required amenities within 79 cents of undivided share of land in which the Amalfi Tower was built. It was also claimed that Members of the Petitioner-Association were allotted and demarcated about 333 car parking slots in accordance with individual agreement with each of the owners and as per the approved plan. The respondent also claims that the Members of the Petitioner-Association can exclusively utilise only their respective allotted portion of Car Park and the undivided share of the land and building in the above said 79 cents. The respondent further claimed that the Petitioner-Association illegally barricaded common areas around its tower and is preventing the usage of Car Parks allotted to other customers of the development. It is the specific case of the respondent that the petitioner herein has been illegally obstructing the respondent and its other customers from accessing and using the car parks numbering about 143 allotted to neighbouring tower owners.



7. It is admitted fact that the Petitioner-Association filed a complaint in Complaint No.292/2021 before the Tamil Nadu Real Estate Regulatory Authority seeking a direction to respondent to realign the number of parking slots in accordance with approved numbers and at locations as per the DTCP approval. The petitioner also sought for a direction to respondent to provide 10% of the parking space towards allotment of visitors car parking in accordance with the Tamil Nadu Combined Development Building Rules 2019. The complaint of the petitioner was disposed of by Tamil Nadu Real Estate Regulatory Authority, by order dated 21.12.2022 by directing the respondent to ensure full compliance as per the plan approved by the Mamallapuram Local Planning Authority as far as allotment of car parking slot of allottees as well as visitors car parking.

8. It was asserted by the respondent in the plaint that car parking for the owners and visitors car parking were allotted as per the approved plan. Since the Members of the Petitioner-Association obstructed usage of car parks, allotted to other purchasers in the neighbouring towers and illegally obstructed the usage of the common passage, which are not within the undivided share of land belonging to Petitioner-Association and hence, the above mentioned suit was filed seeking relief as stated supra.



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9. After receipt of the suit summon, the petitioner herein filed instant civil revision petition seeking to strike off the plaint.

10. The learned counsel appearing for the petitioner would submit that the instant plaint has been preferred by the respondent only to circumvent the order passed by the Tamil Nadu Real Estate Regulatory Authority, dated 21.12.2022, wherein the respondent was directed to comply with the provision of access to internal roads strictly as per the approved plan and to ensure the allotment of car parking slots to the allottees as well as visitors as per the plan approved by Mamallapuram Local Planning Authority. The learned counsel further submitted that the suit is solely aimed at nullifying the order passed by the Tamil Nadu Real Estate Regulatory Authority and therefore, the prayer sought for in the suit is barred by Section 79 of the Real Estate (Regulation and Development) Act, 2016. It is also stated that the respondent suppressed the pendency of the execution petition filed by the petitioner in E.P.No.23 of 2023 on the file of jurisdictional District Court for execution of order passed by Tamil Nadu Real Estate Regulatory Authority. The learned counsel further submitted that the respondent indulged in illegal construction of new towers in the location of clubhouse for Phase-II based on the DTCP Approval dated 19.11.2020 and 6/14



the same was challenged by the petitioner in a writ petition and the same was dismissed. The writ appeal filed by the petitioner was allowed by quashing the DTCP Approval dated 19.11.2020 with liberty to the respondent to approach the owners/allottees of flats in respect of seven towers including Amalfi for the purpose of their consent to alter the clubhouse. The learned counsel further submitted that the present suit filed by the respondent is to circumvent the order passed in the writ appeal and the present suit is barred by the principles of *res judicata*.

11. Per contra, the learned counsel appearing for the respondent would submit that the allotment of car park was done as per the approved plan by the Mamallapuram Local Planning Authority and absolutely, there is no violation from the approved plan. Hence, according to the learned counsel for the respondent, the direction issued by the Tamil Nadu Real Estate Regulatory Authority has been followed in its letter and spirit. The learned counsel further submitted that if the present suit is barred under any law, the petitioner has got effective remedy of invoking Order 7 Rule 11 of the Code of Civil Procedure before the Trial Court and present revision filed by the petitioner by invoking supervisory jurisdiction is not maintainable. In support of the said contention, the learned counsel for the respondent relied

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on the judgment of the Apex Court in *P.Suresh vs. D.Kalaivani and others* reported in **2026 INSC 121**.

12. It is not in dispute that the Tamil Nadu Real Estate Regulatory Authority in the order stated above, directed the respondent to adhere to the approved plan by Mamallapuram Local Planning Authority while allotting car parking slots to the purchasers and the visitors. In the plaint, it was asserted by the respondent that the allotment of car parking to owners and visitors were done only in accordance with the approved plan. Whether the allotment made by the respondent in favour of the purchasers of the apartments/visitors/visitors park are in accordance with the approved plan or not is a disputed question of fact which requires evidence. The same cannot be decided by this Court based on the pleadings of the parties.

13. The respondent in his pleadings asserted that the allotment of car parks to purchasers of the apartments and also visitors car park were made in accordance with the approved plan and the petitioners are attempting to obstruct usage of car parks allotted to other purchasers and therefore, the instant suit has been filed. On the other hand, the petitioner in the



Memorandum of Grounds of this revision asserted that the respondent violated the approved plan and allotted car parks and very filing of the suit is to circumvent the order passed by the Tamil Nadu Real Estate Regulatory Authority. The rival claims made by the parties cannot be decided without evidence. Therefore, the submission made by the learned counsel appearing for the petitioner that the filing of the very suit is an attempt to circumvent the order passed by the Tamil Nadu Real Estate Regulatory Authority cannot be decided at this stage.

14. It is also submitted by the learned counsel appearing for the petitioner that when issue was decided by the Tamil Nadu Real Estate Regulatory Authority, filing a suit to circumvent the order passed by the Statutory Authority is barred by Section 79 of the Real Estate (Regulation and Development) Act, 2016. If it is the case of the petitioner that the present plaint is barred by Section 79 of the Real Estate (Regulation and Development) Act, 2016, the petitioner has got effective remedy of filing an application seeking rejection of the plaint before the Trial Court itself by invoking Order 7 Rule 11 (d) of the Code of Civil Procedure. Instead of availing the remedy available before the Trial Court, the petitioner is not entitled to rush to this Court by invoking supervisory jurisdiction, in view of 9/14



the law settled by the Apex Court in *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and others vs. Tuticorin Educational Society and others* reported in *MANU/SC/1365/2019* case.

15. In the above mentioned case law, the Apex Court categorically held that availability of alternative remedy before the regular Civil Court is a near total bar for this Court to exercise the supervisory power under Article 227 of the Constitution of India. The above said decision was followed by the Apex Court in *P.Suresh vs. D.Kalaivani and others* reported in 2026 *INSC 121*. The relevant observation of the Apex Court reads as follows:-

“9. From the aforesaid discussion, it would logically follow that the High Court would not only discourage but desist from exercising jurisdiction under Article 227 of the Constitution in respect of a challenge for which a separate, distinct, and specific remedy or statutory provision is available under the statute concerned. Availability of an alternative civil remedy and/or under the CPC shall be treated as complete and near total bar on the High Court to venture to invoke and exercise its power available under Article 227 of the Constitution, except where exercise of supervisory jurisdiction becomes absolutely necessary.



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10. For all the aforesaid reasons and discussions, this court is of the view that High Court committed a manifest error in exercising its powers under Article 227 of the Constitution to strike down the plaint. It ought to have asked the defendant to take recourse to, in accordance with law, when specific provisions available in the Code of Civil Procedure, 1908 in the nature of Order VII Rule 11. The impugned judgment and order of the High Court, therefore, deserves to be set aside.”

16. In view of the law settled by the Apex Court in the above mentioned case laws, this Court is not inclined to exercise its supervisory power to strike off the plaint. However, it is open to the petitioner to file appropriate application before the Trial Court seeking rejection of the plaint, if so advised.

17. The learned counsel for the petitioner by relying on the judgment passed in writ appeal in W.A.No.3328 of 2023, submitted that the present suit is barred by *res judicata*. Whether the suit is barred by *res judicata* or not cannot be decided at this stage, without considering the pleadings of the parties in the earlier proceedings. It is always open to the petitioner to



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produce the pleadings of the parties and judgment rendered in the earlier proceedings before the Trial Court and convince the said Court that the present prayer is barred by *res judicata*.

18. In view of the above discussion, the Civil Revision Petition stands dismissed with liberty to the petitioner to file an application for rejection of the plaint before the Trial Court under Order 7 Rule 11 of the Code of Civil Procedure, if so advised. No costs. Consequently, the connected civil miscellaneous petition is closed.

26.02.2026

Index :Yes
Speaking order :Yes
Neutral Citation :Yes
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To

The District Munsif cum Judicial Magistrate,
Thiruporur.



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S.SOUNTHAR, J.

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Pre-delivery order made in
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