**IN THE COURT OF THE CITY CIVIL & SESSIONS JUDGE,**

**AT BANGALORE**

**O.S. No. 3302/2023 (CCH-12)**

**I A NO. / 2023**

**BETWEEN**

1. Mr.Rahul Sharma

S/o Ashok Sharma

Aged about 42 years **Plaintiff No.1**

Residing at Daisy 4H

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

1. Mr.Jayant Singal

S/o Ramesh Singal

Aged about 35 years **Plaintiff No.2**

Residing at Aster 3C

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

1. Mr.Ramesh Singal

S/o Late. Kedar Nath Singal

Aged about 65 years **Plaintiff No.3**

Residing at Aster 3C

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore – 560035**

1. Mr.Sunil Bhaskar

S/o KN Bhaskaran

Aged about 43 years **Plaintiff No.4**

Residing at Euryops 7B

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore – 560035**

1. Mrs.Prathisha Sunil

W/o Sunil Bhaskar

Aged about 42 years **Plaintiff No.5**

Residing at Euryops 7B

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

1. Smt. Puvvula Neeharika

W/o S V S K Balagangadhar Chittajallu

Aged about 33 years **Plaintiff No.6**

Residing at Daisy 2F

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

1. Mr. Nishantkumar Govindbhai Panchal

S/o Govindbhai J Panchal

Aged about 43 years **Plaintiff No.7**

Residing at Aster 7F

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

1. Dr Vinod Kumar

S/o Devadutt Sharma

Aged about 55 years **Plaintiff No.8**

Residing at Cosmos 2D

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

1. Mr. Rajesh Pooppotte

S/o Chandra Kaladhran

Aged about 40 years, **Plaintiff No.9**

Residing at Bluebell 11C

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

1. Smt. Sowmya N

W/o Rajesh Pooppotte

Aged about 40 years **Plaintiff No.10**

Residing at Bluebell 11C

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

1. Smt. Singhi Mol

W/o Jibin Jayaram

Aged about 37 years **Plaintiff No.11**

Residing at Aster 6B,

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore-560035**

1. Klassik Landmark Apartment Owners

Cooperative Society Limited,

(Registered under the Karnataka **Plaintiff No.12**

Co-operative Societies Act, 1959

Represented by its Vice President,

Mr. S V S K Balagangadhar Chittajallu

Having their office at Klassik Landmark

Apartment, Junnasandra, Varthur Hobli

**Bangalore - 560035**

**AND**

1 Klassik Landmark Apartment Owners Association

Represented by the President Mr. Abhas Sinha **Defendant No.1**

 Situated at Sy.No. 34/9, 34/10, 34/11,

34/12 & 34/13, Junnasandra,

Varthur Hobli, Choodasandra Main Road,

 Near Amritha College of Engineering,

 Off Sarjapur Road,

 **Bangalore – 560035.**

1. Mr.Saradchandra Rao Peswa

S/o Not known, Major

Residing at Bluebell 6B **Defendant No.2**

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore – 560035**

1. Mr.Chetan.S.Bilagi

S/o Not known, Major

Residing at Cosmos 6C **Defendant No.3**

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore – 560035**

1. Mr.Anappa.K.E

S/o Not known, Major

Residing at Daisy 7C **Defendant No.4** Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore – 560035**

1. Mr.K.V.Suresh Reddy

S/o Not known, Major

Residing at Cosmos 12F **Defendant No.5**

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore – 560035**

1. Mr.Hrudanand Sahoo

S/o Not known, Major

Residing at Bluebell 11A **Defendant No.6**

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore – 560035**

1. Mr.Amar Prabhakar

S/o Not known, Major

Residing at Aster 12E **Defendant No.7**

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

1. Mr.Pravin T Sardey

S/o Not known, Major

Residing at Bluebell 13F **Defendant No.8**

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore – 560035**

1. Mr. Paresh Kumar

S/o Not known, Major

Residing at Euryops 6A **Defendant No.9**

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

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1. Mr. Chandrashekar Reddy

S/o Not known, Major

Residing at Aster 11E **Defendant No.10**

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

1. Dr Kushal Lakshmana

S/o Not known, Major

Residing at Daisy 11B **Defendant No.11**

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

1. Dr. Akash Mukherjee

S/o Not known, Major

Residing at Euryops 6F **Defendant No.12**

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore – 560035**

1. Sudip Chatterjee

S/o Not known, Major

Residing at Daisy 14E **Defendant No.13**

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

**Bangalore - 560035**

1. Mr.Sundaresha C A,

S/o. Late Anantharaman,

Aged about 52 years, Defendant No.14

Residing at Flat No.4C,

4th Floor, Bluebell Tower,

Klassik Landmark Apartment,

Junnasandra, Varthur Hobli

Bangalore - 560035

**Application filed by the Plaintiffs under Order XL Rule 1(a) Read with Section 151 of C.P.C.**

That for the reasons sworn to in the affidavit accompanying, the Plaintiffs above named pray that this Hon’ble Court be pleased to appoint a receiver to take care of the maintenance and other management activities of the “Klassik Landmark Residential Complex” till the final disposal of the present suit in the prevailing situation to ensure that the Apartment Owners are not put into any inconvenience in the interest of equity and justice.

Advocate for Plaintiffs Plaintiff No.1

Place : Bangalore

Date : 10.08.2023

**IN THE COURT OF THE CITY CIVIL & SESSIONS JUDGE,**

**AT BANGALORE**

**O.S. No. 3302/2023. (CCH-12)**

Plaintiffs : Rahul Sharma & Others

**Vs**

Defendants : Klassik Landmark Apartment Owners

Association & Others

**AFFIDAVIT**

I, Rahul Sharma, S/o. Shri. Ashok Sharma, aged about 42 years, residing at, Daisy 4H, Klassik Landmark Apartment, Junnasandra, Varthur Hobli, **Bangalore – 560 035**, do hereby solemnly affirm and state on oath as under:

1. I am the Plaintiff No.1 in the above case and well acquainted with the facts stated hereunder. I swear to this affidavit on my behalf and on behalf of Plaintiff Nos.2 to 11.
2. I submit that the averments submitted in the Plaint and the contents of the documents produced along with the plaint, with IAs and through various memos may kindly be read as part and parcel of this affidavit to avoid repetition of facts.
3. I submit that more than 220 Apartment Owners voluntarily decided and exercised their fundamental rights conferred under Article 19 (1) (c) of the Constitution of India to form and register an Apartment Owners Association after waiting for more than 5 years from the date of execution of the Registered Sale Deed and the Association was formed and registered on 28.07.2022 in the name and style as “Klassik Landmark Apartment Owners Cooperative Society Limited”, the Plaintiff No.12 in this case, under the provisions of the Karnataka Cooperative Societies Act, 1959 to protect the interest, share and rights of the Apartment Owners.
4. I submit that the Defendant No.1 as mentioned hereinabove is an allegedly claimed un-registered Association, known in the name and style as M/s. Klassik Landmark Apartment Owners Association. I further submit that though there is an alleged claim that this Defendant No.1 Association has come into existence by virtue of the Deed of Declaration executed and registered on 05.01.2023 using the fabricated Power of Attorney (POA) without the knowledge and consent of the Plaintiff Nos. 1 to 11 and all other Apartment Owners, the same is not a voluntary association formed by the Apartment Owners as defined under section 3 (d) of the Karnataka Apartment Ownership Act, 1972. The alleged un-registered Defendant No.1 Association does not have any valid registration certificate as on today hence not a juridical person.
5. I submit that the Plaintiff No.1 to 11 and other Apartment Owners who are the members of the Plaintiff No.12 Cooperative Society are under obligation to make the maintenance charges only to the Plaintiff No.12 Cooperative Society as per Clause 22 (3) under Chapter – 3 Association funds of the Registered Bye Laws of the Plaintiff No.12 Cooperative Society. However, due to the interim stay order of the Deputy Registrar of the Cooperative Societies in appeal No.DRB-3/Appeal/01/2022-23 dated 23.06.2023, all the routine operation is put on abeyance.
6. I submit that the as on date there is no issue with respect to the maintenance of the “Klassik Landmark Residential Complex”. However, the Plaintiff No.1 to 11 apprehend that going forward, due to the ongoing litigation and the conflict and controversies involving the Plaintiff No.12, Defendant No.1 in collusion with the Builder cum Developer, all the Apartment Owners including the Plaintiff No.1 to 11 and other members of the Plaintiff No.12 could be put into irreparable inconvenience relating to the maintenance and management activities of the “Klassik Landmark Residential Complex”.
7. I submit that the alleged Defendant No.1 unregistered Association is planning to take over the various infrastructures, amenities and facilities form the Builder cum developer without the consent of the Plaintiff No.1 to 11 and all other members of the Plaintiff No.12 Cooperative Society

only with a mala-fide and vested interest to deprive the interest, share and the rights of Plaintiff No.1 to 11 and all other members of the Plaintiff No.12 Cooperative Society in an illegal manner colluding with the developer cum builder.

1. I submit that the communication dated 31.03.2023 & 09.04.2023 of the alleged and illegally formed Defendant No.1 Association without any IOTA of doubt makes the collusion clear as the alleged and illegally formed Defendant No.1 Association is directing the Apartment Owners including the Plaintiff No.1 to 11 and all the other Apartment Owners to deposit the maintenance charges into the account of the same developer cum builder who earlier claimed existence of an Klassik Landmark Apartment Owners Association way back in 2017 itself and directed the Plaintiff No.1 to 11 and all other Apartment Owners including the Defendant No. 2 to 14 to deposit the maintenance charges to the “Klassik Landmark Apartment Owners’ Association” bank account bearing No.546201010050539 with Union Bank of India (UBI), HSR Layout Branch, Bangalore. Subsequently, the Bank account referred above has been closed without any intimation to the Plaintiff No.1 to 11 and all other Apartment Owners including the Defendant No. 2 to 14.
2. I submit that while there is no second opinion with respect to the requirement of the payment to be made for the maintenance and management activities, the past history and the experience encountered with the Builder cum Developer does not reinforce the confidence in the Apartment Owners including the plaintiff No.1 to 11 to make the maintenance payments to any of the groups (be it be the Builder cum Developer or the Defendant No.1 Association or the Plaintiff No.12 Cooperative Society) in the prevailing confused situation.
3. It is submitted that under the prevailing chaotic situation & ongoing litigations, not only the maintenance and management activities of the “Klassik Landmark Residential Complex” but also the safety of the residents/Apartment Owners should not get hampered or disoriented thereby causing inconvenience to the peaceful living of all the Apartment Owners hence a need for an external agency to step in.
4. It is submitted that in the present circumstances none of the parties involved in the conflict, litigations and the controversies can do justice to the Apartment Owners/residents who have invested their hard-earned money or invested by availing the loans from the bank or other financial institutions hence it has become a paramount importance to appoint a court monitored Receiver to carry out the maintenance and management activities of the “Klassik Landmark Residential Complex”.
5. That the Plaintiffs crave leave of this Hon’ble court to adduce further details and documents during the course of the proceedings, should there be a need.

**Wherefore**, the Plaintiff No.1 to 11 humbly pray that this Hon’ble Court be pleased to allow the accompanying application and to appoint a court monitored receiver to take care of the maintenance and other management activities of the “Klassik Landmark Residential Complex” till the final disposal of the present suit in the prevailing situation to ensure that the Apartment Owners are not put into any inconvenience in the interest of equity and justice.

Identified by me

Advocate Deponent

**VERIFICATION**

I, Rahul Sharma, do hereby solemnly affirm that this is my name and signature and the contents of this affidavit of mine are true to the best of my knowledge, information and belief.

Place : Bangalore Deponent

Date : 10.08.2023