

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2025

CORAM

THE HONOURABLE MR. JUSTICE **S.M.SUBRAMANIAM**
AND
THE HONOURABLE MR. JUSTICE **MOHAMMED SHAFFIQ**

O.S.A. No.335 of 2025

1.The State of Tamil Nadu rep. By its
Principal Secretary to Government,
Revenue and Disaster Management
Department, Fort St. George,
Chennai – 600 009.

2.The District Collector,
Chennai District,
Collectorate of Chennai,
Singaravelar Maaligai,
62, Rajaji Salai, Chennai – 600 001.

... Appellants

Vs.

1.Madras Race Club,
A Company registered under the
Companies Act, 1913 rep. By
its Secretary S.Nirmal Prasad
having its office at Guindy,
Chennai – 600 032.

2.Tamil Nadu Race Horse Owners Association
rep. By its Secretary,
Madras Race Club, Owner's Lounge,
Guindy, Chennai – 600 032.

3.Tamil Nadu Race Horse Trainers Welfare

Association rep. By its
General Secretary,
Madras Race Club,
Guindy, Chennai – 600 032.

4.Madras Race Club Staff Welfare

Association rep. By its Secretary,
No.12, Parasuramar Street,
Gandhi Salai, Velachery,
Chennai – 600 042.

... Respondents

For Appellants : Mr.P.Wilson,
Senior Counsel
for Mr.D.Ravichander,
Special Government Pleader

For Respondents : Mr.P.H.Arvinth Pandian,
Senior Counsel
for Mr.Vaibhav R.Venkatesh
for R1

ORDER

(Order of the Court was made by **S.M.Subramaniam J.**)

State of Tamil Nadu represented by its Principal Secretary to Government, Revenue and Disaster Management Department and the District Collector, Chennai are appellants in the present Original Side Appeal. The appeal is directed against the impugned order passed in O.A.No.401 of 2025 in C.S.No.81 of 2025. The suit has been instituted by the first respondent/Madras Race Club against the State of Tamil Nadu to declare G.O.(Ms.)No.343 Revenue and Disaster Management Department dated

06.09.2024 terminating the lease and the consequential letter and notice issued by the Government of Tamil Nadu as null and void and consequential relief of permanent injunction was also sought for.

2. O.A. No.401 of 2025 has been filed not to dispossess the first respondent/plaintiff from the suit schedule property.

3. An interim order of '*status quo*' was granted by the learned single Judge of this Court. Counter Affidavit and Additional Counter Affidavit have been filed. It is submitted by the State that operation of order of status quo is impeding the works relating to development and strengthening of ponds, apart from the proposed Eco Park. The order of status quo would adversely impact public at large since all works have come to a stand still, moreso, with the onset of monsoon and heavy rains being forecast over the next few weeks. It was submitted that the application was heard and orders reserved by the learned Judge on 18.08.2025. Since orders are not pronounced State is compelled to file this appeal, else in view of the impending rains the order of status quo would adversely affect public interest.

4. C.M.P. No.25695 of 2025 has been filed to condone the delay of 74 days in filing the Original Side Appeal. The matter was taken up for hearing by this Bench on 17.10.2025. The State raised their apprehension that since the

monsoon has arrived and heavy rain fall being forecast by the Meteorological Department throughout the State, order of status quo is impeding the State from initiating swift/necessary action to avoid flooding and preserve rain water in the public interest.

5. Learned counsel appearing on behalf of the first respondent, while arguing the condonation of delay petition, made a submission that the first respondent/Madras Race Club has no objection and they will not cause any obstruction to any work relating to strengthening or developing the ponds as it is in public interest. Considering the pleadings and arguments, delay of 74 days in filing the Original Side Appeal was condoned by this Court on 17.10.2025.

6. Subsequently, the Original Side Appeal was numbered by the Registry and listed for admission before this Bench today (22.10.2025). The first respondent filed an affidavit seeking for the recusal of one of us (S.M.Subramaniam, J.) from hearing the present case. Since the affidavit has been filed by the first respondent, it necessitated this Court to decide the said issue as a preliminary issue before proceeding any further with the admission of the Original Side Appeal.

7. Reasons stated in the affidavit are that one of us (S.M.Subramaniam, J.) passed final orders in W.P.Nos.29644 to 29646 of 2017 on 29.03.2023 filed by the first respondent/Madras Race Club. In the said writ order, certain observations were made, which in the view of the first respondent, are adverse findings which are conclusive. It was thus submitted, there is likelihood of bias inasmuch as observations also touch upon validity of the lease entered into between the State of Tamil Nadu and the Madras Race Club several decades back. Second reason being one of us (S.M.Subramaniam, J.) appeared on behalf of one Mr.Jayapoorna Chandra Rao and his family members in a suit filed by the first respondent in C.S.No.366 of 2004. Subsequently, the said Jayapoorna Chandra Rao and his family members had filed another suit in C.S.No.63 of 2005 wherein one of us (S.M.Subramaniam, J.) was engaged by Mr.Jayapoorna Chandra Rao. Respondent Club is a party in both suits.

8. Citing the above reasons, recusal of one of us (S.M.Subramaniam, J.) from hearing the present matter has been sought for.

9. Learned Senior Counsel Mr.P.H.Arvinth Pandian appearing on behalf of the first respondent relied on the affidavit for all the above reasons. He would rely on the judgments rendered in the following cases:

*(i) Ranjit Thakur vs. Union of India and Others reported
in (1987) 4 SCC 611;*

(ii) State of W.B. And Others vs. Shivananda Pathak and Others reported in (1998) 5 SCC 513;

(iii) Ezsias vs. North Glamorgan NHS Trust reported vide Neutral Citation of Royal Courts of Justice, London in (2007) EWCA Civ 330;

(iv) Supreme Court Advocates on Record Association and Another vs. Union of India (Recusal Matter) reported in (2016) 5 SCC 808; and

(v) My Palace Mutually Aided Cooperative Society vs. B.Mahesh and Others reported in 2022 (5) CTC 244.

10. Per contra, learned Senior Counsel Mr.P.Wilson appearing on behalf of the appellants/State would oppose by stating that the allegations are baseless and made with an ulterior motive of stalling the proceeding. He would submit that deciding a writ petition by a single Judge, does not bar the Judge from being a member of a Division Bench nor supply ground to raise allegation of bias. That apart, the earlier writ petition was filed by the first respondent/Madras Race Club challenging the demand notice issued by the Revenue Tahsildar for recovery of lease amount. In the said writ petition, grounds raised were dealt with by the Court, observations pointed out by learned Senior Advocate for petitioner would not constitute expression of

opinion thus plea of likelihood of bias raised by first respondent is devoid of merit.

11. Learned Senior Counsel Mr.P.Wilson would rely on the following judgments:

- (i) A.Venkatasubbiah Naidu vs. S.Chellappan and Others reported in (2000) 7 SCC 695;*
- (ii) Subrata Roy Sahara vs. Union of India and Others reported in (2014) 8 SCC 470; and*
- (iii) N.G. Projects Limited vs. Vinod Kumar Jain and Others reported in (2022) 6 SCC 127.*

12. This Court has carefully gone through the findings in the judgments relied on by the respective learned Senior Counsel appearing on behalf of the parties to the *lis* on hand and principles laid down by the Apex Court in the matter of recusal from a case. It would be suffice to deal with the issue raised in the present case by relying on the principles laid down by the Constitution Bench of the Hon'ble Supreme Court of India in ***Supreme Court Advocates on Record Association and Another vs. Union of India (Recusal Matter)*** reported in **(2016) 5 SCC 808**. This Court would like to extract the following paragraphs:

“10. It is one of the settled principles of a civilised legal system that a Judge is required to be impartial. It is said that the hallmark of a democracy is the existence of an impartial Judge.

.....

19. In substance, the Court held that in cases where the Judge has a pecuniary interest in the outcome of the proceedings, his disqualification is automatic. No further enquiry whether such an interest lead to a “real danger” or gave rise to a “reasonable suspicion” is necessary. In cases of other interest, the test to determine whether the Judge is disqualified to hear the case is the “real danger” test.

.....

25. From the above decisions, in our opinion, the following principles emerge;

25.1 If a Judge has a financial interest in the outcome of a case, he is automatically disqualified from hearing the case.

25.2 In cases where the interest of the Judge in the case is other than financial, then the disqualification is not automatic but an enquiry is required whether the existence of such an interest disqualifies the Judge tested in the light of either on the principle of “real danger” or “reasonable apprehension” of bias.

25.3 The Pinochet case added a new category i.e that the Judge is automatically disqualified from hearing a case where the Judge is interested in a cause which is being promoted by one of the parties to the case.”

13. In the context of the principles laid down, this Court has to consider whether the reasons stated in the affidavit filed by the first respondent can be fit in, in any one of the grounds.

14. Learned Senior Counsel Mr.P.H.Arvinth Pandian would agree that one of us (S.M.Subramaniam, J.) has no financial interest in the outcome of the present case. Thus, the first principle is inapplicable.

15. He would rely on the second principle by stating that there is a reasonable apprehension in the mind of the litigant that the issues involved in the appeal may be decided against them. However, he would agree that there is no automatic recusal in the present case but the point on the ground of 'reasonable apprehension' is to be taken into consideration.

16. As far as reasonable apprehension is concerned, this Court has examined the judgment delivered in W.P.Nos.29644 to 29646 of 2017 dated 29.03.2023 and Civil Suit in C.S.No.81 of 2025. Admittedly, civil suit in C.S.No.81 of 2025 has been instituted by the respondent challenging the

Government Order terminating the lease issued in G.O.(Ms.)No.343 Revenue and Disaster Management Department dated 06.09.2024, which is subsequent to the order passed in the writ petition. The Government letters under challenge were also issued subsequent to the writ order passed by one of us (S.M.Subramaniam, J.). The writ order has been passed by one of us (S.M.Subramaniam, J.) while sitting single in writ jurisdiction. The observations made while disposing the writ petition by the first respondent, in our considered opinion, may not have any bearing nor impact the present issue raised in the present appeal against the order of status quo in C.S.No.81/2025, which is subsequent and against a distinct/new cause of action.

17. Learned Senior Counsel Mr.P.H.Arvinth Pandian had primarily premised his submission rather request for recusal of one of us (S.M.Subramaniam, J.) on the premise that there is a reasonable likelihood of bias and that bias ought to be tested from the standpoint of the litigant and not from that of the Judge. He would submit that the proper approach for the Judge is not to look at his own mind and ask himself, however honestly, “am I biased?”, but to look at the mind of the party before him. There can be no two views on the above aspect. However, it is not every suspicion held by a party that a Judge hearing the proceedings is biased must lead to recusal. Apprehension of bias must be judged from point of view of a healthy and

reasonable person and not on mere apprehension of a person who is whimsical. Reasonable apprehension, it may be noted, must be based on cogent materials. A lawyer or a litigant should not, rather cannot, form an apprehension of bias on the basis of a remark or observation made by a Judge in course of hearing of a case or in a previous matter involving the same parties decided by the said judge / judicial officer. If every remark of a Judge made from the Bench or observation in an order is to be construed as indicating prejudice, it is afraid most Judges will fail to pass the exacting test. It is not uncommon for judges to express opinions, tentatively formed, sometimes even strongly in the course of hearing; but that does not always mean that the case has been prejudged. This is where experience of a judicially trained mind assumes relevance for it has frequently been noticed that the view expressed by Judges breaks down on a closer examination, and often enough, some judges acknowledge publicly that they were mistaken. It is not uncommon for a Judge to revisit/reconsider an issue and arrive at a different conclusion, a reflection that a Judge is ready to change his view if good and valid reasons are found to exist. The above is an essential attribute which every Judge is expected to possess and imbibe.

18. Viewed in the above background, the observation made in the writ petition challenging a demand notice cannot be a reason to recuse from hearing an appeal against the interim order of a learned Judge in a suit filed

for declaration of Government Order terminating the lease as null and void. Both are independent and distinct cause of action. There is not even an indirect or a remote connection muchless direct/proximate connection between the issues/subject matter in the writ petition and the suit. Thus the above reason is wholly devoid of merit, rather a pretence to avoid the Bench.

19. With regard to the other submission that of one of us having been engaged against respondent club by Mr.Jayapoorna Chandra Rao in C.S.No.63 of 2005 and C.S.No.366 of 2004. It must be clarified that the matter was transferred from High Court to Civil Court and change of vakalat was given in favour of Mr.A.Sivaji in respect of C.S.No.366 of 2004. While in respect of C.S.No.63 of 2005, the change of vakalat was given in favour of N.S Sivakumar. The allegation of likelihood on the bias that a suit was filed against the respondent club by one of us two decades back is nothing short of an attempt to avoid the bench which I'm a party. If the above reason did raise apprehension of bias, the same ought to have been raised when the writ petition in W.P.No.29644 to 29646 of 2017 was heard and disposed of by one of us. The fact that the petitioner had no objection to the writ petition being heard and absence of any request for recusal would clearly show that the above reason is an after thought and pretence/excuse to avoid the bench wherein I am a party.

20. The third point is based on ***R. vs. Bow Street Metropolitan Stipendiary Magistrate, ex p Pinochet Ugarte (No.2)*** reported in ***(2000) 1 AC 119***, relied by the Constitution Bench while proceeding to observe as under:

'20. The Pinochet case added one more category to the cases of automatic disqualification for a judge. Pinochet, a former Chilean dictator, was sought to be arrested and extradited from England for his conduct during his incumbency in office. The issue was whether Pinochet was entitled to immunity from such arrest or extradition. Amnesty International, a charitable organisation, participated in the said proceedings with the leave of the Court. The House of Lords held that Pinochet did not enjoy any such immunity. Subsequently, it came to light that Lord Hoffman, one of the members of the Board which heard the Pinochet case, was a Director and Chairman of a company (known as AICL) which was closely linked with Amnesty International. An application was made to the House of Lords to set aside the earlier judgment on the ground of bias on the part of Lord Hoffman.

21. The House of Lords examined the following questions:

(i) Whether the connection of Lord Hoffman with Amnesty International required him to be automatic disqualified?

(ii) Whether an enquiry into the question whether cause of Lord Hoffman's connection with

Amnesty International posed a real danger or caused a reasonable apprehension that his judgment is biased – is necessary?

(iii) Did it make any difference that Lord Hoffman was only a member of a company associated with Amnesty International which was in fact interested in securing the extradition of Senator Pinochet?

22. Lord Wilkinson summarised the principles on which a Judge is disqualified to hear a case. As per Lord Wilkinson -

“The fundamental principle is that a man may not be a judge in his own cause. This principle, as developed by the courts, has two very similar but not identical implications. First it may be applied literally: if a judge is in fact a party to the litigation or has a financial or proprietary interest in its outcome then he is indeed sitting as a judge in his own cause. In that case, the mere fact that he is a party to the action or has a financial or proprietary interest in its outcome is sufficient to cause his automatic disqualification. The second application of the principle is where a judge is not a party to the suit and does not have a financial interest in its outcome, but in some other way his conduct or behaviour may give rise to a suspicion that he is not impartial, for example because of his friendship with a party. This second

type of case is not strictly speaking an application of the principle that a man must not be judge in his own cause, since the judge will not normally be himself benefiting, but providing a benefit for another by failing to be impartial.

In my judgment, this case falls within the first category of case, viz. where the judge is disqualified because he is a judge in his own cause. In such a case, once it is shown that the judge is himself a party to the cause, or has a relevant interest in its subject matter, he is disqualified without any investigation into whether there was a likelihood or suspicion of bias. The mere fact of his interest is sufficient to disqualify him unless he has made sufficient disclosure.....”

And framed the question;

“....the question then arises whether, in non-financial litigation, anything other than a financial or proprietary interest in the outcome is sufficient automatically to disqualify a man from sitting as judge in the cause.”

He opined that although the earlier cases have

“all dealt with automatic disqualification on the grounds of pecuniary interest, there is no good reason in principle for so limiting automatic disqualification.”

23. Lord Wilkinson concluded that Amnesty International and its associate company known as AICL, had a non-pecuniary interest established that Senator Pinochet was not immune from the process of extradition. He concluded that,

“...the matter at issue does not relate to money or economic advantage but is concerned with the promotion of the cause, the rationale disqualifying a judge applies just as much if the judge’s decision will lead to the promotion of a cause in which the judge is involved together with one of the parties” (emphasis supplied)

24. After so concluding, dealing with the last question, whether the fact that Lord Hoffman was only a member of AICL but not a member of Amnesty International made any difference to the principle, Lord Wilkinson opined that:

even though a judge may not have financial interest in the outcome of a case, but in some other way his conduct or behaviour may give rise to a suspicion that he is not impartial....

and held that:

“...if the absolute impartiality of the judiciary is to be maintained, there must be a rule which automatically disqualifies a judge who is involved, whether personally or as a Director of a company, in promoting the same causes in the same organisation as is a party to the suit. There is no room for fine distinctions....”

This aspect of the matter was considered in P.D.Dinakaran case.'

21. It was found in ***Pinochet*** case that the issue was whether Pinochet was entitled to immunity from arrest or extradition. Amnesty International, a charitable organisation participated in the proceedings with the leave of the court. House of Lords held that Pinochet did not enjoy any such immunity. It came to light subsequently that Lord Hoffman, one of the members of the Board which heard ***Pinochet*** case was a Director and Chairman of a Company known as A.I.C.L. closely related with Amnesty International. It is in those circumstances that the House of Lords found one of the members was personally interested in a organisation which was a party to the proceeding. Factually, there is no pleading whatsoever as to how one of the Judges, whose recusal is sought for, has any personal or financial interest. In view thereof, relying on ***Pinochet*** principle is misplaced the facts of the present case.

22. Before parting, I must make it clear that the decision not to recuse but proceed to hear the matter was entirely mine. Though, I must state on discussion with my colleague on the Bench, he would also agree that I should not recuse from hearing the matter.

23. It is necessary to bear in mind that faith in the administration of

justice is one of the pillars on which democratic institution functions and sustains. Faith in the judiciary cannot be permitted to be shaken by wayward and pelting of stones of suspicion by every disgruntled/resented litigant. It is necessary to bear in mind that as per the Third Schedule to the Constitution of India, oath or affirmation is taken by Judges that they will duly and faithfully perform the duties of the office to the best of his ability, knowledge and judgment without fear or favour, affection or ill-will and will so uphold the Constitution and the laws. Request for recusal in the present case cannot be acceded to as laid down by the Constitution Bench. Since as held by the Constitution Bench of Apex Court, if I were to accede to the prayer for my recusal, I would be initiating a wrong practice, and laying down a wrong precedent. A Judge may recuse at his own, from a case entrusted to him by the Chief Justice. That would be a matter of his own choosing. But recusal at the asking of a litigating party, unless justified, must never to be acceded to. For that would give the impression, of the Judge had been scared out of the case, just by the force of the objection. A Judge before he assumes his office, takes an oath to discharge his duties without fear or favour. He would breach his oath of office, if he accepts a prayer for recusal, unless justified. It is my duty to discharge my responsibility with absolute earnestness and sincerity. It is my duty to abide by my oath of office to uphold the Constitution and the laws. My decision to continue to be a part of the Bench, flows from the oath which I took, at the time of my elevation to this Court.

24. In view of the above reasoning, the affidavit filed seeking recusal of one of us (S.M.Subramaniam, J.) does not merit consideration rather acceding to the above prayer would pave way to forum shopping/bench hunting thus the above prayer for recusal is not acceded to. Thus, this Court intends to proceed with the admission of the Original Side Appeal.

25. Since the interim order of status quo as stated *supra* would adversely affect public interest, we are inclined to modify the said order and permit the State to carryout all works relating to strengthening/development of pond and any other project of public interest and the respondent club shall co-operate and not obstruct such work. We find support in modifying the order of status quo in Section 41(ha) of the Specific Relief Act, 1963, which provides that an injunction cannot be granted if it would impede or delay the progress or completion of any infrastructure project. It is not in dispute that the strengthening/development of ponds and Eco Park are infrastructure projects sought to be implemented by the Government in larger public interest, in view thereof the order of status quo stands modified as provided *supra*.

26. Admit. Mr.Vaibhav R.Venkatesh, learned counsel accepts notice for the first respondent. Issue notice to respondents 2 to 4 returnable in four weeks. Private notice is also permitted.

27. Post the matter after four weeks.

[S.M.S., J.] [M.S.Q., J.]
22.10.2025

mmi/spp

To

- 1.The Madras Race Club,
A Company registered under the
Companies Act, 1913 rep. By
its Secretary S.Nirmal Prasad
having its office at Guindy,
Chennai – 600 032.
2. The Sub Assistant Registrar,
Original Side,
High Court, Madras.

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