BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL (TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Islands)

(Under the Real Estate Regulation And Development Act 2016)

DATED 10.02.2021

Coram : Mr.Justice B.Rajendran, Chairperson
Mr.N.Balasubramanian, Judicial Member
Ms.Leena Nair, Administrative Member

Appeal No. 67 of 2020

M/s.SVM Constructions
Rep by its Partner G.Manishankar ... Appellant

-Vs-

K.M.A.Abdul Rahman ... Respondent

This appeal was taken on file on 04.11.2020. The appellant appeared through its counsels M/s.G.V.Sridharan, R.Karthikeyan, P.Kannan, S.Satheeshkumar. The application under Section 43(5) of the Act in M.A.No.130/2020 came up for final hearing on 11.01.2021 and heard the appellant counsel through video conferencing and this Tribunal passed an order by directing the appellant to pay 40% of the total amount as ordered by the court below on or before 09.02.2021 failing compliance to deposit, the appeal will be dismissed automatically and posted for compliance on 10.02.2021. On that day

the appellants' counsel represented that conditional order not complied with. Hence this Tribunal passed the following:

ORDER

2. The appellant and the respondent entered into construction agreement on 03.09.2014. The appellant agreed to complete the construction within 18 months from the date of making advance payment. The respondent so far paid Rs.31 lakhs. Within the stipulated period the appellant failed to complete the construction and hand over the same. Hence the respondent came forward with the complaint for refund of the advance amount with interest and compensation. After contest the Adjudicating Officer allowed the complaint in part. Aggrieved upon the same the appellant preferred this appeal along with waiver application. In the waiver application this tribunal ordered the appellant to deposit 40% of the amount ordered by the court below on or before 09.02.2021. Since the appellant failed to comply the order this Tribunal passed the following order:

> *"Today the case is posted for compliance order passed under section 43(5). The appellant counsel could not make the connection in the video conferencing. He came in the mobile number of the court staff and stated that his client has not complied with the order as per the direction of the Tribunal. He sent an email during the course of hearing.*
>
> *"As per the order of this Honble court the petitioner not able to comply the order meantime the settlement talks between the petitioner and respondent is started to settle the entire issue. kindly prays time and pass suitable orders and thus render justice"*

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From the email it is very clear that they have not complied with the order of the compliance under Section 43(5) which is mandatory, without depositing the amount the appeal cannot be entertained.

For non-compliance of the order passed under section 43(5) the appeal is dismissed. No costs.

The connected Miscellaneous applications are closed.

This Order is directly dictated to the Stenographer and typed in the computer by her, corrected and pronounced by us in the open court on 10th Day of February 2021.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
ADMN. MEMBER

Sd/- xxxx
JUDL. MEMBER

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