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 28.01.2022

Coram : Mr.Justice B.Rajendran, Chairperson
Mr.N.Balasubramanian, Judicial Member

A.No. 144/2021

M/s. Casa Grand Builder Private Limited
Rep. by its Authorized Signatory
Mr.Mohanraj ... Appellant

-Vs-

1. Rajan Amuthan
2. R.Arulmozhi ... Respondents

This Appeal was preferred against the order of Adjudicating Officer in C.C.P.No.05/2020 dated 23.07.2021. This Appeal was taken on file on 15.12.2021 and came up for final hearing in M.A.No.201/2021 under Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 and ordered to pre-deposit of 100% of the total amount ordered by the court below. For compliance of pre-deposit order the matter came up in the presence of

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appellant's counsel M/s. Anand, Samy and Dhruva. The case was posted on 28.01.2022 through video conferencing for reporting compliance. The learned counsel for the appellant sought for extension of time without filing any application. Considering the non compliance of the pre-deposit order this Tribunal delivered the following:

ORDER

1. The home buyers preferred a complaint against the promoter for refund of amount paid with interest and compensation with costs in C.C.P.No.05 of 2020. After contest the Adjudicating Officer directed the promoter to refund Rs.1,77,05,071/- with interest at the rate of 10.25% from the date of respective payment till repayment. The Adjudicating Officer has also awarded Rs.5,00,000/- towards mental agony and inconvenience and awarded a sum of Rs.50,000/- towards litigation expenses. Aggrieved upon the same the appellant herein preferred this appeal along with waiver application under Section 43(5) of the Real Estate (Regulation and Development) Act, 2016. In the waiver application in M.A.No.201/2021 this Tribunal ordered 100% of the total amount ordered by the court below. Since the appellant failed to comply the order this Tribunal delivered the following order:

> ***The appellant counsel present, states that the appellant so far has not deposited the amount. He requested time without even filing the application for extension. The earlier order is very clear, it is a conditional order with time for payment on or before 27.1.2022. The period expired yesterday itself, they have not even come forward with an application for extension. In view of the Hon'ble Supreme Court judgment as the payment of money is mandatory one and as they have not***

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deposited the amount, the appeal cannot be entertained. The application in M.A.No.201/2021 in A.No.144/2021 is dismissed for nonpayment of the amount as ordered by the Tribunal as the order has not been complied with.

Consequently A.No.144/2021 is dismissed for non compliance of the order under Section 43(5) which is a mandatory requirement for entertaining the appeal as per the Hon'ble Supreme Court Judgment.

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 28th Day of January 2022.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
JUDL. MEMBER

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