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 09.02.2022

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

Miscellaneous Application Nos. 203 of 2021, 22 of 2022 and 26 of 2022

in

Appeal No.86 of 2021

M.A.No.203/2021

1. Devendra Bhatia
2. Anjula Bhatia ... Applicants/Appellants

-Vs-

1. K.Balasubramaniyan
2. G.K.S. Technology Park Pvt. Ltd.
   Represented by its Managing Director
3. Tulive Viha Apartments Owners Association,
   Rep. by its President
4. S.Ganesa Subramanian
5. M.Suresh Kumar .... Respondents/Respondents

M.A.No.22/2022

K.Balasubramaniyan ... Applicant/1st Respondent

-Vs-

1. Devendra Bhatia
2. Anjula Bhatia ... Applicants/Appellants
3. G.K.S. Technology Park Pvt. Ltd.
   Represented by its Managing Director
4. Tulive Viha Apartments Owners Association,
   Rep. by its President
5. S.Ganesa Subramanian
6. M.Suresh Kumar .... Respondents/Respondents

M.A.No.26/2022

S.Ganesa Subramanian ... Applicant/4th Respondent

-Vs-

1. Devendra Bhatia
2. Anjula Bhatia ... Applicants/Appellants
3. K.Balasubramaniyan ... Applicants/1st Respondent
4. G.K.S. Technology Park Pvt. Ltd.
   Represented by its Managing Director
5. Tulive Viha Apartments Owners Association,
   Rep. by its President
6. M.Suresh Kumar .... Respondents/Respondents

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These Miscellaneous applications were taken on file on 22.12.2021, 28.1.2022 and 2.2.2022 respectively and came up for final hearing on 2.2.2022 along with appeal in the presence of M/s. K.Suresh Babu, P.Mahalakshmi and Kadambri Suresh, Counsels for the appellant and M/s. Gokul Krishnan, S.Patrick, K.Sankar Vignesh, A.Aravind, T.G.Madhuvaneswaran, Ojas Sivakumar, Counsels for 1st respondent and R2, R3 & R5 called absent and 4th Respondent appeared as Party-in-person. Having heard the arguments of both sides through video conferencing and having stood over for consideration till this date and this Tribunal delivered the following:

COMMON ORDER

1. These Miscellaneous applications were preferred by the appellants, 1st respondent and 4th respondent respectively as per the rankings in the main appeal.

2. The appellants sought for receiving as additional documents which are the no objection letters of 24 apartment owners by expressing that "they have no objection in you residing in plot No.C401 and C402 enjoying the inter connected area. You do not have to demolish the inter connected area." The above said documents dated 1.9.2021 to 10.11.2021. The appellants preferred this appeal on 12.8.2021. The above said no objection letters were received during the pendency of the appeal. Therefore, these no objection letters are not relevant to decide the issue that the sale of common area is legally sustainable.

3. The 1st respondent sought for receiving as additional documents which are notice issued by the 1st respondent to the builder and his reply and they were issued after the order of the Regulatory Authority. The appellants questioned the order of the Regulatory Authority in this appeal. In such a situation in this appeal the deciding point is whether the common area sale by the builder is legally sustainable. Therefore the above said documents are no way helpful to decide the issue in this appeal.

4. The 4th respondent sought for receiving as additional documents which are Form 'M' filed by the 4th respondent in C.No.113/2020 and Interlocutory application and counter filed by the respondents and order of the Regulatory Authority in C.No.113/2020. In the above said order itself the Regulatory Authority has stated that the reliefs sought in the complaint already granted in C.No.1/2020 and now that order was challenged in this appeal. Therefore the above said documents are no way helpful to decide the issue.

5. Therefore this Tribunal comes to the conclusion that all the above said three Miscellaneous Applications are not relevant to decide the issue in this appeal. Moreover the reasons stated in the affidavit are not sufficient to entertain the applications.

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6. In the result, Miscellaneous Applications in M.A.Nos.203/2021, 22/2022 and 26/2022 are dismissed. No costs.

This Order is directly dictated to the Stenographer, typed in the computer by her, corrected and pronounced by us in the open court on 09th Day of February 2022.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
ADMN. MEMBER

Sd/- xxxx
JUDL. MEMBER

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