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 22.10.2021

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

Appeal No. 70 of 2021

BBCL Srishti Homes LLP.,
Rep. by its Designated Partner
Mr.Vummidi Ananth ... Appellant

-Vs-

1. D.K.Bhagavathi Nath
2. B. Rajalakshmi
3. T.S.Manohar ... Respondents

This Appeal was preferred against the order of Adjudicating Officer in C.C.P.No.304 of 2019 dated 23.02.2021. This Appeal was taken on file on 28.06.2021 and came up for hearing for compliance in M.A.No.80 of 2021 under

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Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 and ordered to pre-deposit of 40% of the total amount ordered by the court below. For compliance of pre-deposit order the matter came up in the presence of appellant's counsel M/s.P.H.Manoj Pandian, N.Zahid Ahmed, Sonali.J, AAV Partners. The case was posted on 22.10.2021 for reporting compliance. Considering the non compliance of the pre-deposit order this Tribunal delivered the following:

ORDER

1. The respondent in this appeal has preferred complaint before the Adjudicating Officer in C.C.P.No.304 of 2019 for the relief of compensation for the delay in handing over possession and compensation on the ground of making false promises, compensation for mental agony and litigation costs. After contest the Adjudicating Officer allowed the complaint in part and directed the appellant/promoter to pay compensation for delay as interest at the rate of 10.05% and also directed to pay delay compensation at the rate of 10.05% per annum from August 2016 to 18.8.2018 and also awarded compensation for mental agony a sum of Rs.5,00,000/- with litigation costs Rs.25,000/-. Aggrieved upon the same the appellant/promoter herein has preferred this appeal along with waiver application. In the waiver application this Tribunal ordered 40% of the total amount ordered by the court below. Since the appellant failed to comply the order this Tribunal delivered the following order:

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"The appellant counsel present and states that they have not complied with the earlier order to deposit the amount under Section 43(5). The respondent party-in-person present.
In the last order dated 29.09.2021 it is stated as follows:

"M.A.No.142/2021 is the application for extension of time filed under Section 44(3). The appellant in the connected case in A.No.58/2021 party-in-person present who is the respondent herein. As this is the second application as a last chance time is granted to deposit as per the earlier order on or before 21.10.2021 failing which the application shall stands dismissed automatically. Call on for compliance on 22.10.2021."

In the order itself it is very clear that if they do not deposit on or before 21.10.2021 the application shall stands dismissed automatically. As they have not deposited the amount, the application stood dismissed automatically yesterday itself. M.A.No.80/2021 is dismissed for non compliance. For non payment of money as ordered by this court under Section 43(5) no appeal could be entertained. Hence A.No.70/2021 is dismissed for non compliance.

Application in M.A.No.80/2021 is dismissed. Consequently, A.No.70/2021 is dismissed."

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 22nd day of October 2021.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
ADMN. MEMBER

Sd/- xxxx
JUDL. MEMBER