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 27.10.2021

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

Appeal No. 82 of 2021

M/s.Ozone Projects Private Limited
Represented by its Authorized Signatory
Mr.K.Krishnan ... Appellant

-Vs-

Akmin Technologies Pvt. Ltd.,
Rep. by its MD. S.Prasanth ... Respondent

This Appeal was preferred against the order of Adjudicating Officer in C.C.P.No.307 of 2019 dated 07.05.2021. This Appeal was taken on file on 28.07.2021 and came up for hearing for compliance in M.A.No.101 of 2021 under Section 43(5) of the Real Estate (Regulation and Development) Act, 2016

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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.BFS Legal, P.V. Balasubramaniam, D.Ferdinand, K.M.Aasim Shehzad, Akhil R Bhansali and M.Meera. The case was posted on 27.10.2021 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.307 of 2019 for the relief of refund of sale consideration with interest and for compensation. After contest the Adjudicating Officer allowed the complaint in part and directed the appellant/promoter to refund the sale consideration Rs.2,30,79,779/- with interest @ 10.05 % per annum along with compensation of Rs.5,00,000/- and litigation cost 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:

> ***"The Appellant counsel present, states that the appellant has not complied with the order. Hence the application may be dismissed. In view of the fact that the order to deposit under Section 43(5) which is a mandatory one, has not been complied, the application in M.A.No.101/2021 is dismissed.***

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In view of the fact that M.A.No.101/2021 application filed under Section 43(5) is dismissed, the appeal itself is dismissed for the non compliance of the order of deposit which is mandatory under Section 43(5)."

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 27th Day of October 2021.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
ADMN. MEMBER

Sd/- xxxx
JUDL. MEMBER

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