BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL (TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Islands)

(Under the Real Estate Regulation And Development Act 2016)

Friday the 22nd day of April 2022

Coram :Ms.Leena Nair, Administrative Member
Mr.R.Padmanabhan, Judicial Member

Appeal No. 12 of 2022

M/s. K.G. Foundations Private Limited,
Rep by its Authorized Signatory
Mahendra Chugh ...Appellant

Vs

M.Gandhi ...Respondent

This matter came up for admission in the presence of M/s S.V.Pravin Rathinam, Vignesh Venkat, B.Karthikeyan, P.Gopinath, M.Lulu Mariam, Bala Kumar, G.Josephine Shreela, Suaib Meeran, Shrrivatsav, R.Ravichander, Advocates for the appellants.

ORDER

This Appeal was taken on file on 18.03.2022. Along with the appeal miscellaneous application in M.A.No.37 of 2022 was also filed seeking to waive the deposit as per Section 43(5) of the Real Estate (Regulation and Development) Act, 2016. The respondent herein preferred a complaint before the Adjudicating Officer in C.C.P.No.61 of 2020 as against the

Verified RealEstate

appellants herein, for the relief of refund of amount with interest and compensation. After contest the Adjudicating Officer directed that the complainant is entitled for refund of Rs.28,42,212/- with interest@10.05% per annum along with compensation of Rs.1,00,000/- for mental agony and litigation cost Rs.25,000/. Aggrieved over the same the appellant has preferred this appeal along with waiver application.

In view of the Supreme Court Judgment rendered in Newtech Promoters and Developers Pvt. Ltd. Vs State of U.P., this Tribunal, while refusing to waive any portion, directed the appellant to deposit the entire amount as per the order of the learned Adjudicating Officer in CCP 61 of 2020 dated 17.08.2021, on or before 21.04.2022. However the appellant failed to comply with the order this Tribunal.

The appeal was originally filed and returned for rectifying the defects. The appeal was then represented with a delay of 127 days. The delay was condoned and the appeal was taken on file. At request by the Counsel for the appellant nearly one month time was granted to deposit the amount. As per order dated 28.03.2022 the appellant was directed to deposit the amount on or before 21.4.2022. In spite of enough time was given for making the deposit the appellant has not come forward to deposit the amount. No application was filed to extend the time for making the deposit.

Further the learned Counsel for the appellant represented that the matter is likely to be settled between the parties. As per Section 43(5) no appeal can be entertained unless the entire amount ordered to be paid to

Verified RealEstate™

the respondent including compensation with interest and costs is deposited before the appeal is heard. Hence the M.A.No.37/2022 was dismissed. Consequently, the appeal is also dismissed."

Connected Miscellaneous applications if any are hereby 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 April 2022.

Sd/- xxxx
ADMN. MEMBER

Sd/- xxxx
JUDL. MEMBER

Verified RealEstate