BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL, CHENNAI

Monday the 19th day of September 2022

CORAM : Miss. LEENA NAIR, ADMINISTRATIVE MEMBER
Mr.R.PADMANABHAN, JUDICIAL MEMBER

Appeal No.36 of 2022

Abhishek Modi ... Appellant

-Vs-

1. M/s. Influence Infrastructure
   (Represented by its Partner Naresh Kumar Jain)
2. M/s. Influence Enterprises (INDIA) Private Limited
   Formerly known as "INFLUENCE LIFE STYLE STORES PVT.LTD.,
   (Represented by its Managing Director Naresh Kumar Jain)
3. Naresh Kumar Jain
4. Varsha Jain ... Respondents

This is an appeal U/s 44(1) of the Real Estate (Regulation and Development) Act 2016 as against the Order passed by the Tamil Nadu Real Estate Regulatory Authority in E.P.No.10 of 2021 in C.No.143 of 2017 dated 10.06.2022.

Abhishek Modi ... Execution Petitioner/Complainant

-Vs-

1. M/s. Influence Infrastructure
   Represented by its Partner Naresh Kumar Jain
2. M/s. Influence Enterprises (India) Pvt. Ltd.
   formerly known as "Influence Life Style Stores Pvt. Ltd.
3. Naresh Kumar Jain
4. Varsha Jain ... Respondents/Respondents

This appeal was taken on file on 25.08.2022 and came up for final hearing on 19.09.2022 in the presence of M/s. Anant Merathia, Ranghasayee,

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Vetrivel P and S.Kavin, Counsels for the appellant. Having heard the arguments on the side of the appellant through video conferencing and having stood over for consideration till this date and this Tribunal delivered the following:

ORDER

The brief facts that are relevant for the disposal of this appeal are as follows:

1. The appellant herein had originally filed a complaint in C.No.143 of 2017 against the respondents with a prayer to refund of the advance amount of Rs.1,83,72,550/- along with interest. As per the directions of the TNRERA the complainant filed another complaint in Form 'N' before the Adjudicating Officer and the same was taken on file in C.C.P.No.168 of 2019 for refund of the advance amount of Rs.1,83,72,550/- along with interest. While keeping the complaint in C.No.143/2017 pending, the TNRERA has issued a direction to register the project. The respondents failed to register the project within the time allowed by TNRERA. Finally as per the final order passed in C.No.143 of 2017 dated 19.12.2019, the TNRERA has imposed a penalty of Rs.10,00,000/- as against the respondents, and granted 30 days time to pay the penalty.

2. As the respondents failed to pay the penalty the TNRERA has issued a recovery order on 24.09.2020 directing the District Collector, Chennai to recover the same as arrears of land revenue as contemplated under Section 40 of the Real Estate (Regulation and Development) Act, 2016.

3. While the recovery proceedings are pending, the dissatisfied complainant, filed Execution Petition in E.P.No.10 of 2021 with a prayer to impose higher penalty of 10% of the total cost of construction and also to

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recommend Criminal prosecution to the appropriate Metropolitan Magistrate of First Class under Section 59(2) of the Real Estate (Regulation and Development) Act, 2016. The TNRERA after hearing both sides, disposed the E.P.No.10 of 2021 vide order dated 10.06.2022 holding that since recovery order has been sent already to the District Collector, Chennai for recovery of the penalty amount no further directions are required. This appeal has been directed against the said order passed in the E.P.No.10 of 2021 dated 10.06.2022.

4. Today when the matter came up for admission, the counsel for the appellant came forward to withdraw the appeal with liberty to file a fresh appeal as against the order passed in C.No.143 of 2017 dated 19.12.2019 if necessary.

5. Considering the facts and circumstances of this case the appeal is dismissed as withdrawn. Subject to law of limitation the appellant is at liberty to file a fresh appeal as against the order passed in C.No.143 of 2017 dated 19.12.2019 if necessary. Connected Miscellaneous Applications pending if any 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 19th Day of September 2022.

Sd/- XXXX
ADMINISTRATIVE MEMBER

Sd/- XXXX
JUDICIAL MEMBER

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