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 28-11-2022

Coram : Hon'ble Mr.Justice M.Duraiswamy, Chairperson
Ms.Leena Nair, Administrative Member
Mr.R.Padmanabhan, Judicial Member

Appeal in S.R.No.685/2022

against

C.C.P.No.115 of 2021

M/s Grand Style Constructions
Rep. by its proprietor S. Elayaraja ... Appellant

- Vs –

1. K.S. Prateep Kumar
2. Srividhya
3. C.A. Prabhakar ... Respondents

This appeal is filed U/s 44(1) of the Real Estate (Regulation and Development) Act 2016 as against the Order passed by Adjudicating Officer, Tamil Nadu Real Estate Regulatory Authority in C.C.P.No.115/2021 dated 03.08.2022.

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This appeal came up today for compliance to deposit the amount as per Section 43(5) of the Act, in the presence M/s S.Abubacker Sidhic and S.Vadivel Murugan, Counsels for appellant. This Tribunal delivered the following:

ORDER

The Registry has raised the query with regard to the maintainability of the appeal filed by the appellant challenging the order passed in C.C.P.No.115/2021 dated 03.08.2022 by the Tamil Nadu Real Estate Regulatory Authority, Chennai. The appellant has filed the appeal without making the pre deposit of Rs.12,24,031/- as contemplated under Section 43(5) of the Act. The learned counsel appearing for the appellant submitted that the appellant has got a very good case on merits, therefore the appellant may be exempted from making the pre deposit. The Act does not provide for any waiver of the pre deposit for entertaining the appeal. The Hon'ble Supreme Court in judgment in **"Newtech Promoters and Developers Private Limited Vs. State of Uttar Pradesh & Ors"** reported in **2021 SCC online SC 1044,** categorically held that for maintaining the appeal, the appellant must make the pre-deposit as contemplated under Section 43(5) of the Act.

For the reason that the Act does not provide for any waiver of pre deposit and the Hon'ble Supreme Court has not given any indulgence to the appellant in respect of making the pre deposit the appeal filed by the appellant without making the pre deposit is not maintainable.

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The learned counsel appearing for the appellant submitted that the Hon'ble High Court in C.M.S.A.No.78 of 2021 and C.M.P.No.19181 of 2021 by order dated 01.12.2021 had directed the Administrative Officer of TNRERA not to take any coercive action. The learned counsel further submitted that the order passed by the Hon'ble Division bench of the Hon'ble High Court continues till today. The order passed by the Hon'ble High Court in CMSA No.78 of 2021 dated 01.12.2021 shall not stand in the way of the appellant making the pre deposit as contemplated under Section 43(5) of the Act.

In such view of the matter the appeal is not maintainable and the same is rejected. Connected Miscellaneous applications pending if any, are hereby closed.

Sd.XXXX
CHAIRPERSON

Sd.XXXX
ADMNINISTRATIVE MEMBER

Sd.XXXX
JUDICIAL MEMBER

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