THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL
(TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Islands)

(Under the Real Estate Regulation And Development Act 2016)

DATED 09.08.2023

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

Appeal No.23 of 2023
and
M.A.Nos.114 & 115 of 2023

1. M/s RDB Realty Infrastructure Limited
   rep by its Managing Partner

2. M/s VK Apartments Private Limited
   rep by its Managing Partner ... Appellants

- Vs -

1. Suncity Villa and Flat Owners Association
   rep by its Authorized Signatory

2. M/s Amar Prakaash Developers
   rep by its Authorized Signatory ... Respondents

Prayer: The appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 to allow the appeal and set aside the impugned order dated 18.01.2023 passed in I.A.No.35/2022 in C.No.291/2021 on the file of TNRERA.

For Appellants : Mr.S.R.Sankareshwaran

For 1st Respondent : Ms.N.S.Tanvi

For 2nd Respondent : No appearance

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ORDER

Challenging the order passed in I.A.No.35/2022 in C.No.291/2021 on the file of TNRERA, the respondents 2 and 3 in the said complaint have filed the said appeal.

2. The complainant filed an application in I.A.No.35/2022 seeking for issuance of an order of interim direction restraining the respondents 1 to 3 from demolishing or in any manner interfering with the peaceful usage of Sewage Treatment Plant (STP), Overhead Tank (OHT) and other amenities located within the Suncity Clubhouse by the members of the complainant Association pending disposal of the complaint.

3. Admittedly, the complaint in C.No.291/2021 is pending before the TNRERA.

4. When the complaint came up before TNRERA on 15.06.2023, it was brought to the notice of TNRERA that the National Company Law Tribunal had passed an order under Section 14 of IBC Act in respect of the 1st Respondent/promoter Company and appointed a Resolution Professional. In view of the pendency of the proceedings before NCLT, the TNRERA ordered that the further hearing would take place only after the moratorium is withdrawn. In I.A.No.35/2022, the TNRERA, by order dated 18.01.2023, directed the respondents not to cause any hindrance and disturbance to the existing Sewage Treatment Plant and Overhead Tank.

5.Ms.N.S.Tanvi, learned counsel for the 1st respondent submitted that the 2nd respondent executed the Sale Deeds in favour of the allottees. Further, the learned counsel submitted that though the Sale Deeds were executed in favour of the allottees, the appellants have

locked the Sewage Treatment Plant and Clubhouse for the reasons best known to them. It is also brought to the notice of this Tribunal that the appellants have purchased the Clubhouse and Sewage Treatment Plant from the 2nd respondent.

6. Taking into consideration the case of both parties, the TNRERA, in the interest of justice and to protect the interest of the allottees passed an order in I.A.No.35/2022 directing the respondents 1 to 3 not to cause any hindrance and disturbance to the existing Sewage Treatment Plant and Overhead Tank. Challenging this order, the respondents 2 and 3 in the complaint have filed the above appeal.

7. Admittedly, the said order was passed by the TNRERA after impleading the appellants as respondents 2 and 3 in the complaint in C.No.291/2021.

8.On a careful consideration of the materials available on record and the submissions made by Mr.S.R.Sankareshwaran, learned counsel for the appellants and Ms.N.S.Tanvi, learned counsel for the 1st respondent, it could be seen that the interim order was passed by the TNRERA only to protect the interest of the allottees. Further, when the complaint in C.No.291/2021 is pending before TNRERA, in the event of the interim order passed by the TNRERA being vacated, there will be every possibility that the appellants would cause hindrance and disturbance to the existing Sewage Treatment Plant and Overhead Tank, which would result in making the complaint in C.No.291/2021 infructuous. In the event of Sewage Treatment Plant and Overhead Tank are being demolished or damaged, the very complaint pending before the TNRERA would become infructuous.

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9. In these circumstances, we are of the considered view that the interim order passed by TNRERA should continue till the disposal of the complaint in C.No.291/2021. We do not find any ground to interfere with the order passed by TNRERA. Accordingly, the appeal is dismissed as devoid of merits. Consequently, the connected Miscellaneous Applications are closed.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
JUDICIAL MEMBER

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