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 09.08.2023

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

Appeal No.30 of 2023

Vishal Chauhan ... Appellant

- Vs -

M/s. Golden Homes Pvt. Ltd.,
represented by its Director Balsingh ... Respondent

Prayer: The appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 to allow the appeal and to set aside the order dated 07.03.2023 passed by the learned Single Member, TNRERA in R.C.P.No.132/2022 and restore the R.C.P.No.132/2022 on file and to proceed as per law.

For Appellant : Mr.N.Ronak Jain

For Respondent : Ms.S.Vaitheeswari

ORDER

Challenging the order passed in R.C.P.No.132/2022 dated 07.03.2023 on the file of the learned Single Member, TNRERA, the complainant has filed the above appeal.

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2. The appellant filed the complaint before the learned Single Member, TNRERA seeking refund of the amount with interest from the respondent. Since the appellant/complainant remained absent before the learned Single Member, TNRERA, the complaint was dismissed for non-prosecution. Challenging this order, the complainant has filed the above appeal.

3. In the grounds of appeal, the appellant has stated that since his counsel wrongly noted the hearing dates, he could not appear before the learned Single Member, TNRERA on 14.10.2022, 16.12.2022 and 07.03.2023, resulting in the dismissal of the complaint for non-prosecution.

4. Mr.N.Ronak Jain, learned counsel appearing for the appellant/ complainant submitted that the complainant undertakes to appear before the learned Single Member, TNRERA on any day fixed by this Tribunal and complete the proceedings in a time bound manner.

5. Ms.S.Vaitheeswari, learned counsel appearing for the respondent fairly submitted that the order passed by the learned Single Member, TNRERA may be set aside and remitted back to the learned Single Member for fresh consideration.

6. Having regard to the submissions made by the learned counsel on either side, taking into consideration the reasoning given by the appellant for his non appearance before the learned Single Member, TNRERA and in order to give one more opportunity to him, the order impugned in the appeal in R.C.P.No.132/2022 dated 07.03.2023 is liable to be set aside. Accordingly, the order passed in R.C.P.No.132/2022 dated 07.03.2023 is set aside and the matter is remitted back to the learned Single Member,

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TNRERA for fresh consideration. The appellant/complainant or his counsel as well as the learned counsel for the respondent should appear before the learned Single Member, TNRERA on 16.08.2023. We request the learned Single Member, TNRERA to decide the matter in R.C.P.No.132/2022, on merits and in accordance with law, within a period of six weeks from 16.08.2023, after giving opportunity of hearing to both the parties.

7. With these observations, the Appeal is allowed.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
JUDICIAL MEMBER

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