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 17-03-2023

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

Review Petition No.4/2023

in

Appeal No.33 /2020

1. M/s. Sylvanus Builders & Developers Ltd.,
   Rep. by its Director, Sanjil Ramesh Chandhani

2. M/s. Pacifica (Chennai Project) Infrastructure Co Pvt. Ltd.,
   Rep. by its Managing Director, Rocky Israni

... Review Petitioners /Appellants

- Vs –

K.Srikar Reddy ... Respondent/Respondent

This Review Petition has been preferred by the Review Petitioners/ Appellants to review the order passed by this Tribunal on 02.02.2022 in

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Appeal No.33 of 2022. This Review Petition was taken on file on 17.03.2023 and came up for hearing today.

For Review Petitioners : Mr. K.Venkatasubban
For Respondent : Mr.T.Ragahavan

ORDER

Mr.K.Venkatasubban, learned counsel appearing for the appellant made his submission with regard to the merits of the Review Petition. The only contention that was raised by the Review Petitioner is that the Adjudicating Officer has no jurisdiction to pass the order impugned in the appeal for the reason that the Hon'ble Supreme Court in the judgment reported in 2021 SCC OnLine SC 1044 (M/s.Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP and others) held that the Adjudicating Officer cannot decide the issue.

On a perusal of the materials available on record, it could be seen that the Adjudicating Officer had passed the order as early as on 12.11.2019, whereas the Hon'ble Supreme Court rendered the judgment in Newtech case on 11.11.2021. The ratio laid down by the Hon'ble Supreme Court cannot be applied retrospectively for the order passed in the year 2019.

As per the provisions of Order 47 Rule 1 CPC, the Review Petition can be entertained only if there is an error apparent on the face of the record. In the absence of an error apparent on the face of the record, the Review Petition cannot be entertained. The Review Petition cannot be construed as an appeal in disguise. Further, the appellant cannot reargue the appeal in a Review Petition. When the appellant is not in a

position to point out any error apparent on the face of the record, the present Review Petition is liable to be rejected. We do not find any merits in the Review Petition. Accordingly, the Review Petition is dismissed.

By order dated 28.10.2022, we permitted the respondent to withdraw the sum of Rs.1,40,01,219/- lying to the credit of this Tribunal and we also made it clear the withdrawal is subject to the result of the Review Petition. Since we have dismissed the Review Petition today, the respondent is entitled to get refund of the entire amount lying to the credit of the Tribunal along with accrued interest.

Sd/-xxxx
CHAIRPERSON

Sd/-xxxx
ADMINISTRATIVE MEMBER

Sd/-xxxx
JUDICIAL MEMBER

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