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 26.07.2023

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

R.P.No.5/2023
in
Appeal No.6/2023

R. Radhakrishnan ... Review Petitioner

- Vs -

1. Malathi Badri
2. P.N.Badri ... Respondents

Prayer: The Review Petition has been filed under Section 53(4)(e) & (g) of the Real Estate (Regulation and Development) Act, 2016 to allow this application and modify the order by expunging the observation made in paragraph No.2 of the order dated 24.02.2023 made in Appeal No.6 of 2023.

For Review Petitioner : Mr.Ganesh V Aranala

ORDER

By order dated 24.02.2023, this Tribunal dismissed the appeal at the admission stage as devoid of merits. While dismissing the appeal, in paragraph No.2 of the order, it has been stated that the learned counsel

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for the appellant fairly admitted that the appellant, by deviating from the approved building plan, had constructed a residential flat at the ground floor and a studio flat at the open terrace. Now, the appellant has filed the above Review Petition to review the observation made in paragraph No.2 of the order.

2. Mr.Ganesh V Aranala, the learned counsel appearing for the Review Petitioner submitted that the observation would affect his interest professionally, hence, the said observation may be modified.

3. Apart from making this submission, the learned counsel has not made any submission with regard to the Review Petition.

4. It is pertinent to note that a Review Petition can be entertained only if there is an error apparent on the face of the record as contemplated under Order 47 Rule 1 CPC. In the case on hand, we do not find any error apparent on the face of the record warranting interference in the Review Petition.

5. On a perusal of the counter affidavit filed by the appellant before the Adjudicating Officer, it could be seen that he has admitted that he had constructed a residential flat at the ground floor and a studio flat at the open terrace deviating from the approved building plan in the year 2018 itself.

6. When the appellant himself had filed a counter admitting that he had put up construction deviating from the approved plan, we modify the observation made in paragraph No.2 of the order as follows:

Instead of the existing sentence which reads as

> "2. The learned counsel for the appellant fairly admitted that the appellant, by deviating from the

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approved building plan, had constructed a residential flat at the ground floor and a studio flat at the open terrace (herein after will be referred to as unauthorized constructions)."

it should be read as

"2. *The appellant himself, in his counter, has admitted that he had constructed a residential flat at the ground floor and a studio flat at the open terrace by deviating from the approved building plan (hereinafter will be referred to as unauthorized constructions) in the year 2018 itself.*"

7. This modification is being done only to protect the interest of the learned counsel appearing for the Review Petitioner. In other aspects, the order dated 24.02.2023 shall remain unaltered.

8. With the above observations, the Review Petition is dismissed.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
JUDICIAL MEMBER

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