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 : 04.10.2023

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

Appeal No.64 of 2023

V.Chinnathambi ... Appellant

- Vs -

State Bank of India Officers Association,
Chennai Circle (SBIOACC)
rep by General Secretary R.Balaji ... Respondent

Prayer: The appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 to set aside the order dated 17.11.2022 in C.C.P.No.73 of 2021 passed by the learned Single Member, TNRERA.

For Appellant : Mr.A.Sittrarasu

For Respondent : Mr.Sam Jayaraj Houston
for M/s.Sarvabhauman Associates

O R D E R

Challenging the order passed in C.C.P.No.73 of 2021 dated 17.11.2022 on the file of the learned Single Member, TNRERA, the complainant has filed the above appeal.

2. The complainant had filed the complaint seeking remedy under Section 31 of the Real Estate (Regulation and Development) Act,

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2016 for delayed delivery of the flat and for other defects in the flat taken over by him.

3. The respondent-Association filed their counter and were contesting the complaint before the learned Single Member.

4. Since the complainant failed to appear before the learned Single Member, the complaint was dismissed for default on 17.11.2022. Challenging the said order, the complainant has filed the above appeal.

5. Mr.Sam Jayaraj Houston, learned counsel for the respondent-Association submitted that the learned Single Member had given sufficient opportunity to the complainant and inspite of the same, he did not appear before the Authority to make his submissions, hence, the learned Single Member had no other option except to dismiss the complaint for default.

6. Mr.A.Sittrarasu, learned counsel for the appellant/ complainant submitted that the complainant was suffering from various ailments, hence, he could not give proper instructions to his counsel, therefore, he could not appear before the learned Single Member to make his submissions. Further, the learned counsel submitted that in the interest of justice, an opportunity may be given to the complainant to appear before the learned Single Member and make his submissions.

7. Having regard to the submissions made by the learned counsel on either side, taking into consideration the case of both sides and in the interest of justice, we are of the considered view that the order passed by the learned Single Member can be set aside and remitted back to the Authority for fresh consideration. Accordingly, the order dated 17.11.2022 passed in C.C.P.No.73 of 2021 is set aside and the

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matter is remitted back to the learned Single Member for fresh consideration. The parties or their respective counsels are directed to appear before the learned Single Member on 16.10.2023.

8. On receipt of the copy of the order, the learned Single Member shall decide the complaint in C.C.P.No.73 of 2021 afresh, on merits and in accordance with law.

9. With these observations, the appeal is allowed.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
JUDICIAL MEMBER

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