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 24.07.2023

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

Appeal Nos.9 and 15 of 2023
and
M.A.No.56/2023 in A.No.15/2023

D.Sunil ... Appellant in A.No.9/2023
and Respondent in A.No.15/2023

- Vs -

M/s. Alliance Mall Developers
Company Private Ltd.,
Rep. by its Director ... Respondent in A.No.9/2023
and Appellant in A.No.15/2023

Prayers:

Appeal No.9/2023 has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016

i) To allow the appeal and to set aside the order passed by the Single Member, TNRERA dated 13.01.2023 in CCP No. 324 of 2021 with respect to point no.1 that the plea made by the complainant is not permissible and

(ii) To direct the respondent to pay the interest @ 12% per annum towards the invested amount of Rs.17,94,398/- from the date of the payment made by the complainant till 13.10.2021.

Appeal No.15/2023 has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016, to allow the appeal and to set aside the directions for payment of penalties in paras 8 (ii) & (iii) of the final order passed by the Single Member, TNRERA dated 13.01.2023 in C.C.P.No. 324 of 2021.

For Appellant in A.No.9/2023 and
Respondent in A.No.15/2023 : Ms.S.Revathy

For Respondent in A.No.9/2023 and
Appellant in A.No.15/2023 : Mr.Dwarakesh Prabhakaran

COMMON ORDER

When the appeals are taken up for hearing, Ms.S.Revathy, learned counsel appearing for the appellant and Mr.Dwarakesh Prabhakaran, learned counsel appearing for the Respondent in A.No.9/2023 submitted that the parties had settled the matter out of court and also entered into a Joint Memorandum of Compromise dated 24.07.2023. The learned counsel on either side also produced the Joint Memorandum of Compromise dated 24.07.2023, which has been signed by the parties as well as their respective counsels.

2. In A.No.15/2023, the learned counsel appearing for the appellant filed a Joint Memo dated 24.07.2023, wherein it has been stated that the appeal in A.No.15/2023 may be disposed of in terms of the Joint Memorandum of Compromise entered into between the parties in A.No.9/2023. The learned counsel on either side submitted that the

appeal may be disposed of in terms of the Joint Memorandum of Compromise dated 24.07.2023.

3. The Joint Memorandum of Compromise in A.No.9/2023 and the joint memo in A.No.15/2023 dated 24.07.2023 are taken on record.

4. The appeals are disposed of in terms of the Joint Memorandum of Compromise dated 24.07.2023. The terms of Joint Memorandum of Compromise shall form part of the order passed in the above appeals.

5. In the Joint Memorandum of Compromise, the parties also agreed that the appellant in A.No.15/2023 may be permitted to withdraw the amount deposited by the appellant to the credit of A.No.15/2023. Further, the parties agreed that the penalties imposed by the Single Member, TNRERA in C.C.P.No.324/2021 may be set aside.

6. Recording the submissions made by the learned counsel on either side, the penalties imposed by the Single Member, TNRERA in C.C.P.No.324/2021 are set aside. The appellant in A.No.15/2023 is permitted to withdraw the amount deposited by them to the credit of A.No.15/2023.

Consequently, the connected Miscellaneous Application is closed.

Sd/-xxxx
CHAIRPERSON

Sd/-xxxx
JUDICIAL MEMBER

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IN THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL
CHENNAI

TAMILNADU REAL ESTATE APPELLATE TRIBUNAL
SR.NO. 799/23
24 JUL 2023
TNREAT

Appeal No. 9 of 2023

Between:

Mr. D. Sunil
S/o N. Devarajan,
No. 120 C, Rostrevor Gardens,
Railway Officers Enclave,
Anna Salai, Teynampet,
Chennai 600 018 ... **Appellant**

Vs.

M/s Alliance Mall Developers Co. Pvt Ltd.,
Rep. By its Director,
Registered office at,
105/106, Ground Floor, Dream Square,
Dalia Industrial Estate,
Off New Link Road,
Anderi(M), Mumbai-400 053 ... **Respondent**

JOINT MEMO OF COMPROMISE FILED BY THE APPELLANT AND THE RESPONDENT

It is respectfully submitted that:

1. The above-named Appellant and Respondent have agreed to amicably settle the dispute forming the subject matter of the present appeal and Appeal No. 15 of 2023 both arising from the impugned final order dated 13.01.2023 in CCP No. 324 of 2021 passed by the Hon'ble Single Member – TNRERA to buy peace and give a quietus to the legal disputes.

2. The Respondent (Alliance Mall Developers Co. Pvt. Ltd.) has paid and the Appellant (D. Sunil) has received an amount of Rs. 6,70,000/- (Rupees six lakhs and seventy thousand) towards full and final settlement of all claims vide Demand Draft No. 23448 dated 18/7/2023 drawn on Bank of Baroda, Lokhandwala Complex Branch payable at Chennai and receipt of the same is hereby acknowledged by Mr. D. Sunil, towards full and final settlement of all claims in the original proceedings i.e., CCP No. 324 of 2021.

3. The Appellant shall not make any other claims against the Respondent in relation to the present dispute before any forum, tribunal, authority or court of law.

For Alliance Mall Developers Co. Pvt. Ltd.,
Authorised Signatory

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4. It is further clarified that the payment made by the Respondent to the Appellant as per this amicable settlement is not to be construed / treated as admission of any liability or as a precedent in any other case.

5. The Appellant and Respondent hereby treat all claims against each other as withdrawn and consequently the present Appeal No. 9 of 2023 and Appeal No. 15 of 2023 shall be closed in terms of this settlement and the Final Order dated 13.01.2023 in CCP No. 324 of 2021 may be set aside in entirety.

6. It is agreed that any amounts deposited by the Respondent in Appeal No. 15 of 2023 shall be withdrawn/paid out to the said Respondent (Alliance Mall Developers Company Private Limited) without recourse to the Appellant/Complainant.

In light of the above settlement, it is humbly prayed that this Hon'ble Tribunal maybe pleased to DISPOSE of Appeal Nos. 9 and 15 of 2023 in terms of this Joint Memorandum of Compromise and SET ASIDE the Final Order dt. 13.01.2023 in CCP. No. 324 of 2021 passed by the Hon'ble Single Member – TNRERA, and permit the amounts deposited by the Respondent in Appeal No.15 of 2023 to be withdrawn by / paid out to the Respondent (Alliance Mall Developers Company Private Limited) and thereby render justice.

Dated at Chennai on this the 24th day of July, 2023.

For Alliance Mall Developers Co. Pvt. Ltd.,

Authorised Signatory

Appellant

Respondent

Mr. M.T. Parameswaran

Counsel for Appellant

Counsel for Respondent

TAMILNADU REAL ESTATE APPELLATE TRIBUNAL

24 JUL 2023

TNREAT

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ALLIANCE MALL DEVELOPERS CO. PVT. LTD.

Certified true copy of the resolution passed by the Board of Directors of Alliance Mall Developers Co. Private Limited in its meeting held on 11th November, 2021 at 105/106, Ground Floor, Dream Square, Dalia Industrial Estate, Off New Link Road, Andheri (West), Mumbai 400053

Grant of Authority to represent the Company and/or its Directors in all legal proceedings (furtherance to resolution dated 11th Feb 2021):

"**Resolved that** further to the authority granted to Mr Sanjay Pandey, Manager – QS & Billings and Mr Babu B, Chief Manager - Finance and Administration vide resolution passed by the Board of Directors in its meeting held on 11th February 2021, Mr. M. T. Parameswaran, Vice-President – Marketing & Sales, be and is hereby also authorized to represent the Company and/or its Directors in any legal proceedings filed/to be filed by/against the Company and to execute and perform any of the following acts, that is to say:

1. To defend, answer, oppose, prosecute and take all actions and other legal proceedings touching any of the matters aforesaid;
2. To appear or represent the Company and/or its Directors before any Court of Law, Tribunals or any other authorities/persons empowered by the Law to entertain any case, proceedings or enquiry related to the matter;
3. To declare, affirm, sign, execute, verify, attest and file all necessary affidavits, complaints, notices, written statement, vakalatnamas, applications, petitions, caveat, replies, appeals and/or other necessary documents etc. in the matter;
4. To depose and submit all necessary oral and documentary evidence relating to the matters aforesaid;
5. To execute any order, decree, award, judgement etc. if any, passed by the concerned Courts/ tribunals or any other authorities and apply for obtaining copies of the same;
6. To accept and/or effect service of Writ of summons or other legal process that may be served upon the Company;
7. And further to do any other lawful acts, deeds and things incidental or ancillary to the matters."

Certified true copy
For Alliance Mall Developers Co. Pvt. Ltd.

TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL
24 JUL 2023
TNREAT
CHENNAI

ALLIANCE MALL DEVELOPERS CO. PVT. LTD.

Sudhanshu Chaturvedi
Director
DIN : 05151360

Date: 11.01.2022
Place: Mumbai

IN THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL
CHENNAI

Appeal No. 9 of 2023

Between:

Mr. D. Sunil

... **Appellant**

Vs.

M/s Alliance Mall Developers Co. Pvt Ltd.,
Rep. By its Director,

... **Respondent**



JOINT MEMO OF COMPROMISE FILED BY THE APPELLANT AND THE RESPONDENT

M/s. S. Revathy
(MS 2168/2020)
Counsel for Appellant

Mr. Dwarakesh Prabhakaran
(MS 3078/09)
Counsel for Respondent

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