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: 12-04-2024

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

M.A.No.26 of 2024
in
Appeal (SR) No.70 of 2024

1. G.Nalini
2. B.Govindaraj
3. G.Dineshkumar
4. M.Saktivel

... Applicants

.. Vs ..

1. P.Soundararajan
2. V.Umapathy
3. S.Sureshkumar
4. S.Thanumalayan
5. R.Ramesh
6. B.Hemamaalini
7. P.Sujatha
8. P.Soundararajan
9. S.Pandurangan
10. P.Swaminathan
11. S.Ponni
12. S.Aravindan
13. K.Annadurai

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14. P.Chandresan
15. A.Srinivasan
16. M.Prasath
17. A.Arulmozhi
18. M.Rajashekaran
19. M.Rajashekaran
20. T.Ganesan
21. S.Govindarajan
    rep. by Power Agent S.Seenivasan
22. S.Vijayalakshmi
23. M/s.RVS Developers Pvt. Ltd.
    rep. by Director Senthil Azhagan ... Respondents

The Miscellaneous Application has been filed seeking to grant leave for the appellants herein to file appeal under Section 43(5) of RERA against the order dated 10.02.2022 and 22.02.2022 in E.P.Nos.49 to 70 of 2021 filed against the C.C.P.Nos.108, 273, 274, 275, 276, 277, 278, 292, 320, 321, 322, 323, 324, 325, 326, 337, 338, 339, 340 of 2019, 4, 6, 13 of 2020.

The Appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 to set aside the findings and order dated 10.02.2022 and 22.02.2022 passed by the learned Adjudicating Officer, TNRERA, Chennai in E.P.Nos. 49 to 70 of 2021 in C.C.P.Nos.108, 273, 274, 275, 276, 277, 278, 292, 320, 321, 322, 323, 324, 325, 326, 337, 338, 339, 340 of 2019, 4, 6, 13 of 2020 insofar as it relates to the lands comprised in S.Nos.385/1A, 1B, 2A, 2B, 2C and S.Nos.123/2A, 2B1, 2B2, 5A, 5B1A, 5B1B, 5B1C, 5B2 and 5C of Ninnakarai Village, Chengalpattu Taluk and District, totally measuring an extent of 2.66 acres.

For Applicants : Ms.S.Sridevi

For Respondents : Mr.V.Rajesh Babu (R1 to R22)

R23 - no appearance

ORDER

The 3rd party applicants have filed the above application seeking leave to file the appeal as against the order passed in E.P.Nos.49 to 70 of 2021 on the file of the learned Adjudicating Officer, TNRERA, Chennai.

2. By order dated 10.02.2022, the learned Adjudicating Officer passed an order for recovery under Section 40(1) of the RERA Act for non-compliance of the orders in C.C.P.No.108 of 2019 dated 29.11.2019 and C.C.P.Nos.273 to 278, 292, 320 to 326, 337 to 340 of 2019, 4, 6, 13 of 2020 dated 25.06.2021. The orders were passed as against the 23rd respondent in this application, viz., M/s.RVS Developers Pvt. Ltd., rep. by Its Director S.Senthil Azhagan. The applicants claim that they are the owners of the land and that they entered into a Sale Agreement with the 23rd respondent and also executed a general Power of Attorney in their favour. Pursuant to the orders passed in C.C.P.Nos.108 of 2019, 273 to 278, 292, 320 to 326, 337 to 340 of 2019, 4, 6, 13 of 2020, the complainants filed Execution Petitions in E.P.Nos.49 to 70 of 2021.

3. It is brought to the notice of this Tribunal that the orders passed in the Compensation Claim Petitions have become final and that no appeal has been preferred by the 23rd respondent. It is also not in dispute that the 23rd respondent entered into Sale Agreements with the respondents 1 to 22. When the orders passed in the C.C.Ps have become final, the complainants preferred Execution Petitions against the 23rd respondents, which resulted in the order dated 10.02.2022 by the learned

Adjudicating Officer for issuance of recovery warrant under Section 40(1) of the RERA Act.

4. It is also brought to the notice of this Tribunal that the applicants have also filed three other un-numbered Applications before the learned Adjudicating Officer in E.A.(SR).Nos.76, 77 & 78 of 2023 in E.P.Nos.49 to 70 of 2021 to set aside the order passed in the Execution Petitions, to stay the order passed in the Execution Petitions and to grant leave to contest the Execution Petitions. The un-numbered Applications were dismissed by the learned Adjudicating Officer as not maintainable. Challenging the same, instead of filing three separate appeals, the applicants have filed only one appeal in Appeal (SR) No.76 of 2024. When the learned Adjudicating Officer had dismissed the applications filed by the present applicants as not maintainable and declined to permit them to contest the Execution Petitions, we do not find any reason to grant leave to the applicants to challenge the common order passed in E.P.Nos.49 to 70 of 2021.

5. The learned counsel appearing for the applicants submitted that there is a dispute between the applicants and the 23rd respondent and therefore, leave should be granted to them to file the appeal as against the order passed in the Execution Petitions.

6. Since the applicants are not parties to the Sale Agreements entered into between the respondents 1 to 22 and the 23rd respondent, the dispute between the applicants and the 23rd respondent shall not come within the purview of the RERA Act. The dispute between the applicants and the 23rd respondent can be resolved only before a

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competent Civil Court. In such view of the matter, we do not find any merits in the present application for granting leave to file appeal. The application is devoid of merits and the same is dismissed. Consequently, the appeal in Appeal (SR).No.70 of 2024 is rejected.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
JUDICIAL MEMBER

Copy to

1. The Adjudicating Officer, TNRERA.

2. P.Soundararajan,
   Son of N.M.Perumal Gounder,
   No.3, Gr. Floor, South Park Street,
   Gobichettypalayam Town,
   Near Muncipal Park, Erode District 638 452.

3. V.Umapathy,
   Son of Veerasikku,
   No.63, Ward No.3, Panchayat Office Street,
   Pudhupatti, Theni District 625 556.

4. S.Sureshkumar,
   Son of N.Subbarayalu (Late),
   5A, Anna Main Road, Dhanalakshmi Nagar,
   Nerkundram, Chennai 600 107.

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5. S.Thanumalayan,
No.A805, Happiness Tower,
Pacifica Aurun, Padur, OMR, Chengalpattu 603 103.

6. R.Ramesh,
Son of Late Raghunanthan,
No.12A, Type 2 Quarters, Block No.4
Neyveli Township, Cuddalore District 607 801.

7. B.Hemamaalini,
Daughter of S.Balraj,
No.426, Padasalai Street,
Bandarakottai Post, Pudupet Via
Panruti Taluk, Cuddalore District 607 108.

8. P.Sujatha,
Daughter of C.Pasupathi,
No.55C, Type 3 Quarters, Block XII
Neyveli 3, Cuddalore District 607 803.

9. P.Soundararajan,
Son of N.M.Perumal Gounder,
No.3, Ground Floor, South Park Street,
Gobichettypalayam Town,
Near Muncipal Park, Erode District 638 452.

10. S.Pandurangan,
Son of V.Sriniasan (Late),
D2, Sainik Road, Block XVIII
Neyveli Township,
Cuddalore District 607 803.

11. P.Swaminathan,
Son of Ponnambala Pillai,
No.343, M.R.K. Salai, Indira Nagar,
Vadakuthu Post, Kurinjipadi Taluk,

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Cuddalore District 607 801.

12. S.Ponni,
Daughter of P.Swaminathan,
No.9A, Type 2 Quarters, Block IV
Neyveli, Cuddalore District 607 801.

13. S.Aravindan,
Son of Sivagurunathan,
No.2/35, Middle Street,
Kadambara Vazhkai,
Azhiyoor Post, Nagapattinam District 611 108.

14. K.Annadurai,
Son of Late S.Kathirvelu,
E51, Zahir Hussain Road,
Block No.17, Neyveli Township,
Cuddalore District 607 803.

15. P.Chandresan,
Son of K.Perumal,
19C, Type 2 Quarters, Block VII
Neyveli Township,
Cuddalore District 607 803.

16. A.Srinivasan,
Son of K.Azhwar (Late),
No.66, I Main Road, Shantiniketan Colony,
Madambakkam, Chennai - 600 126.

17. M.Prasath,
Son of S.Muthukumar,
No.9A, Type 2 quarters, Block IV
Neyveli, Cuddalore District 607 801.

18. A.Arulmozhi,
Wife of A.Rajasekaran,
No.53, Type 4 Quarters Block XVI

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Neyveli I, Cuddalore - 607 801.

19. M.Rajashekaran,
No.176/32 Amma Illam,
Annai Nagar, Chidambaram,
Cuddalore District 608 001.

20. M.Rajashekaran,
No.176/32 Amma Illam,
Annai Nagar, Chidambaram,
Cuddalore District 608 001.

21. T.Ganesan,
Son of K.Thiyagarajan,
D36 Zahir Hussain Road,
Block IX, Neyveli Township,
Cuddalore District 607 801.

22. S.Govindarajan,
rep. by Power Agent S.Seenivasan,
244, Thiruvalluvar Salai,
Muthiah Nagar, Chidambaram,
Cuddalur District 608 002.

23. S.Vijayalakshmi,
Wife of N.Sivakumar,
E13, Anna Road, Block XXIV
Neyveli TS,
Cuddalore District 607 801.

24. M/s.RVS Developers Pvt. Ltd.
rep. by Director Senthil Azhagan
Off : G2, Lotus Orchid Villa,
Old No.113, New No.48, Vanniar Street,
Choolaimedu, Chennai 600 092.

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