BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL (TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Islands)

Under the Real Estate (Regulation And Development) Act, 2016

Reserved on: 29.01.2024

Delivered on: 02.02.2024

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

Appeal No.6 of 2024
and
M.A.No.7 of 2024

M/s.VME Realty Private Limited
rep. by its Managing Director
V.Manickam ... Appellant

- Vs -

1. M/s. VME Lake Side Owners Welfare Association
   rep. by its Secretary S.Karthikesan

2. M/s. Stanza Living
   rep. by its Nodal Officer ... Respondents 1 & 2

3. M.Kartick ... Proposed 3rd Respondent

Prayer: The appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 to set aside the order of the Tamil Nadu Real Estate Regulatory Authority dated 20.04.2023 passed

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in I.A.No.48 of 2022 in C.No.105 of 2022 and order to implead the proposed Respondent as one of the parties to C.No.105 of 2022.

For Appellant: Ms. Rita Chandrasekar

ORDER

The brief facts that are relevant for the disposal of the above appeal are as follows:

1. The 1st respondent/complainant preferred a complaint before the TNRERA in C.No.105 of 2022 against the appellant/1st respondent and the 2nd respondent to direct (i) the 1st respondent to part with the Corpus Fund amount of Rs.63,25,000/- along with statement of accounts and accrued interest to the petitioner Association as such the petitioner is the rightful entity to hold and manage the same; (ii) the respondents not to interfere in the maintenance of the apartment and desist from collecting the maintenance charges from the owners of the apartment; (iii) the respondents to carry out repairs in the 6 residential blocks and provide all amenities and ensure the same are in functional state including the sewage treatment plant, water treatment plant, establishing swimming pool, half basket ball court, meditation/yoga hall, theatre room, skating rink, library cum business center and ironing space, etc,; (iv) the respondents to pay a sum of Rs.5,00,000/- for each owner in the project as compensation for the damages on account of inconvenience, frustration and the mental agony caused to the members of the complainant; (v) the respondents to pay a sum of Rs.2,00,000/- towards legal charges and cost of the complaint. During the pendency of the said complaint, the appellant filed an interim application in I.A.No.48 of 2022

seeking to implead the proposed party as the 3rd respondent in the complaint. It is the case of the appellant that the proposed 3rd respondent is none other than his own son, who is also a Director of the appellant Company. According to the appellant, his son was handling the bank accounts and collecting the charges from the flat owners and that he only knew the details about the same. Further, it is the case of the appellant that the proposed 3rd respondent was looking after the day to day affairs of the appellant Company. Further, it is the case of the appellant that the proposed 3rd respondent is having the custody of the entire records relating to the appellant Company. Therefore, according to the appellant, the proposed 3rd respondent is a necessary party for the effective adjudication of the complaint.

2. After hearing both sides, the TNRERA dismissed the said interim application. Aggrieved over the same, the appellant preferred this appeal before this Tribunal.

3. Heard the learned counsel for the appellant. Perused the materials available on record.

4. Admittedly, the appellant Company is already being represented by its Managing Director Thiru.V.Manickam. It was only the Company that had involved in the construction of the apartments. In as much as the appellant Company is being represented by its Managing Director, it is not necessary to implead the other Directors of the Company. The other Directors of the Company are neither proper nor necessary parties insofar as the complaint filed by the 1st respondent is concerned. If there is any dispute between the Managing Director and the other Directors of the appellant Company, it is for them to settle

their dispute before appropriate forum. Further, the complainant cannot be compelled to seek the reliefs as against a third party. Only the complainant, who is appellant, can choose his opponent. Therefore, we find no reasons to interfere with the order passed by the TNRERA. Hence, the appeal is liable to be dismissed.

5. In the result, the appeal is dismissed at the admission stage itself. Connected Miscellaneous Application pending is hereby closed.

Sd/- xxxx
CHAIRPERSON

Sd/- xxxx
JUDICIAL MEMBER

Copy to

1. M/s. VME Lake Side Owners Welfare Association
   rep. by its Secretary S.Karthikesan,
   No.183, VME Lakeside Apartment,
   Chembarabakkam, Poonamallee Taluk,
   Thiruvallur - 600 123.

2. M/s. Stanza Living
   rep. by its Nodal Officer,
   Corporate Office at 20th Floor,
   Ireo Grand View Tower, Golf Course Extension road,
   Sector 58, Gurugram, Haryana - 122102.

3. M.Kartick
   No.364, Pillayar Koil Street,
   Panneer Nagar, Mogappair West, Chennai - 600 037.

4. The TNRERA.

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