

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**

Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,

I.A. Nos. 26 of 2019

in

CCP Nos. 139 of 2019

Artha Properties,

Applicant/Respondent No.2

Vs.

(1) P. Rani Vellammal

Respondent No.1/Petitioner

(2) Green Avenue Homes & Gardens

Respondent No.2/Respondent No.1

Applicant / Respondent-2

: Represented by M/s. Tatva Legal,
Advocates

Respondent - 1 / Complainant

: Represented by Ms. P. Bagyalakshmi,
Advocate

Heard on : 18.09.2019

Delivered on : 01.10.2019

ORDER

The above application is filed by the applicant challenging the maintainability of the compensation claim petition filed by the 1st respondent.

2. Averments of the petition in brief as follows:

(a) The 1st respondent has not approached this Forum with clean hands and true facts. The compensation claiming petition is an abuse of process of law. The applicant has preliminary objections of the maintainability of the petition. The project is not registered with RERA. The applicant entered an agreement for marketing with Bennett Property Holdings Co Ltd. The project documents were transferred to Bennett Property Holdings Co Ltd. Hence Artha Properties is not a proper or necessary party to the present proceedings. The 1st respondent is to be called upon to amend the cause title. 1st respondent has already filed a complaint in CC No.86 of 2016 before the State Consumer

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Dispute Redressal Commission at Chennai and the same is pending. As per proviso to Section 71(1) of the RERA Act, the compensation claim petition is liable to be dismissed.

3. **Averments of the 1st respondent in brief as follows:**

(a) The applicant made false promise, committed fraud and cheated the public customers to invest in the Villas. This respondent filed a complaint before the State Consumer Forum. To withdraw the said complaint, a letter was already given. Orders passed for withdrawal of the complaint on 26.08.2019. RERA does not bar the home buyers filing complaint under the Consumer Protection Act. The technical objections should never allow the applicant to escape from the clutches of law. The application is liable to be dismissed.

(b) On hearing the rival contentions of both sides, the following points arose for determination.


(i) Whether the application is maintainable?

4. **Answer for Point No. (i)**

(a) Heard both side Counsels. As per the cause title of the application, "Artha Properties" is the applicant/respondent 2. However, the application is made and signed by M/s. Benneet Property Holdings Company Limited, who is not a party in the main case. The proper procedure is that M/s. Bennett Property Holdings Co Ltd., should have first of all filed a petition to implead themselves as a party.

(b) The learned counsel for the application admitted Artha Properties and Bennett Property Holdings Co Ltd., are different legal entities. In the absence of any order impleading them as party in the main case, M/s. Bennett

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Property Holdings Co Ltd., cannot file any petition to dismiss the main complaint. Hence the name of Artha Properties cannot be used by Bennett Property Holdings Co Ltd., to file this petition.

(c) Further, the learned counsel for the applicant submitted that liberty is given to them to file a petition afresh. Since this petition is not disposed on merits. It is always open to the applicant to file proper petition, if they are advised so. Therefore, the petition is liable to be dismissed. Thus, the point is answered accordingly.

In the result, the petition is dismissed. No cost.

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Sd/- 01.10.2019
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI


ADMINISTRATIVE OFFICER
TN REAL ESTATE REGULATORY AUTHORITY