

BEFORE THE HON'BLE ADJUDICATING OFFICER,  
TNRERA, CHENNAI  
I.A. No. 42/2020  
in  
C.C.P. No. 215 of 2019

1. V. Gnanasambandam,

2. G. Danya

... Petitioners/Complainants

-Vs-

M/s. K.G. Foundations (P) Ltd.

... Respondent/ Respondent

Heard on : 10.11.2020

Delivered on : 15.12.2020

The above petition, filed by the petitioners/complainants, to permit them to file additional rejoinder came up for the final hearing on 10.11.2020, and after hearing both sides and perusing the record, this Forum passes the following:-

**ORDER**

**2. The case of the petitioners, in brief, as follows:-**

(a) The petitioners are the complainants/petitioners in the main case. The affidavit of the first petitioner is filed in support of the petition. The petitioners have already filed rejoinder to the additional counter filed by the respondent. By over sight, certain facts were not stated by the petitioners. The omission was neither willful nor deliberate. Irreparable loss and hardship would be caused if the petition to file the additional rejoinder by the petitioner is not allowed. Hence the petition.

**3. Counter averments of the respondent, in brief, as follows:-**

(a) The petition seeking permission to additional rejoinder is completely unnecessary, vexatious and outside the four corners of law. The petition is not maintainable and the petitioners are seeking to set up a new case by filing the additional rejoinder.

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(b) In the name of filing additional rejoinder, the petitioners sought to amend the complaint itself. It is impermissible in law. In the absence of an amendment of the complaint, such an additional rejoinder cannot be taken on record. It is a well settled law that parties cannot make new and belated pleas in their rejoinder affidavits. There is mala fide intention on the part of the petitioners. Hence, the respondent prays for the dismissal of the application.

**(4) The point that arises for determination:-**

(i) Whether the petition seeking permission to file additional rejoinder by the petitioners is to be allowed?

**(5). Answer for the point:**

(a) The learned counsel for the petitioners submitted that the petitioners filed rejoinder to additional counter of the respondent and at the time some facts which go to the root of the matter were not stated by the petitioners and the said omission is neither willful nor deliberate and the petitioners have a good case on merit and if the petition is not allowed, irreparable loss and hardship would be caused to the petitioners and the petitioners have filed the additional rejoinder along with the petition.

(b) However, the learned counsel for the respondent vehemently opposed the petition and submitted that the petition is not maintainable, since the petitioners attempt to set up a complete new case by filing additional rejoinder and by filing the same, the petitioners sought to amend the complaint itself which is not permissible in law and the petition is liable to be dismissed.

(c) The petitioners stated in the last paragraph of their rejoinder that this Forum is to consider all the aspects and to allow the claim of compensation as stated in the Form N. No new reliefs were sought by the petitioners. Therefore the question of a new pleas does not arise. They have not asked for any reliefs which were not in the original complaint in the rejoinder again.

(d) The learned counsel further contended that the petitioners have deliberately left out the prayer for cancellation of sale agreement and asked for only the relief of compensation. On perusal of the complaint, it is seen that the petitioners sought to cancel the booking seeking return of the entire amount paid to the

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respondent. Therefore the contention is not sustainable. As the cancellation booking of the plot will follow the cancellation of the agreements. Considering above all the circumstances, the petition is to be allowed and the petitioners are permitted to file the additional rejoinder and the additional rejoinder filed is ordered to be received on file. However the same shall be subject to liberty to be given to the respondent for filing additional counter if any by them. Thus the point is answered accordingly.

**In the result, the petition is allowed. No cost.**

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15.12.2020  
LAW OFFICER  
TN REAL ESTATE REGULATORY AUTHORITY

(Sd) .....  
**G.SARAVANAN,**  
**ADJUDICATING OFFICER.**