

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

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

**I.A. No. 13 of 2022**

**in**

**CCP No.280 of 2021**

Dr.Vandana Parvez

... Petitioner/Complainant

-Vs-

1. IVR Hotels & Resorts Private Ltd.
2. IVRCL Limited
3. Kotak Mahindra Investments Limited
4. Kotak Mahindra Trusteeship Services Limited
5. Kotak Investment Advisors Ltd.
6. E.Sudhir Reddy
7. E.Sunil Reddy
8. R.Balarami Reddy

... Respondents/Respondents

**Heard on : 06.06.2022**

**Delivered on : 11.07.2022**

**ORDER**

The above interim application under Order 41,Rule 27,read with Section 151 of the CPC is filed by the petitioner/complainant seeking to take on file the averments, the annexure and exhibits mentioned in the petition as evidence.

**2. Averments of the petitioner/complainant, in brief, as follows:-**

The petitioner/complainant filed an affidavit with additional documents on 10.11.2021 along with annexures-1 to 51. Subsequently, she filed another affidavit with additional documents on 08.02.2022 with annexures-52 to 62 and also a common rejoinder to the counter of the respondents-Kotak Group. She also filed another affidavit to submit additional documents on 05.04.2022

**TRUE COPY**

*kg*  
11/07/2022

with annexures-63 to 67. The petitioner was not privy to some important events, the cognizance and substantiation of which shall prove to be very valuable evidence linked to her complaint being heard by this Forum and therefore prays to allow the petition.

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

The above petition is to adduce additional evidence, which is belated, unwarranted and unsustainable in law, is liable to be dismissed. The contents of the petition are denied by the respondent. The provision of the law under which the petition is filed is applicable only in appellate proceedings. The petition can be filed only if the Forum requires the documents for an effective determination of the dispute. None of the documents sought to be filed are relevant to the issue before the Forum. The petition is filed at the stage of arguments of the case. The documents filed along with the petition have no basis for determination of the present petition. Therefore, the respondent prays for dismissal of the petition with cost.

**4. Counter averments of the respondents-4 and 5, in brief, as follows:**

The petitioner has filed several documents in a piecemeal manner on various dates after filing of the complaint. On comparison, the documents show that they are not the same documents. The petitioner has not furnished the copies of the documents. The respondents have no objection for marking of the documents subject to proof. However, the respondents object to annexure documents A-51 and A-63 to A-69 along with rejoinder. The respondents do not have any objections to marking documents A-52 to A-57. Therefore, the respondents pray that the documents for which consent is given by the respondents only are to be marked by the Forum.

TRUE COPY

16/11/2022

**5. Point for determination:**

Whether the petition seeking to permit the petitioner to file the additional proof affidavit with rejoinder and additional documents is to be allowed or not?

**6. Answer to the point:**

(a) The petitioner submitted that she filed the proof affidavit with documents and subsequently, additional proof affidavits with additional documents and as she was not privy to some important events, the cognizance and substantiation of which shall prove to be very valuable evidence linked to her complaint pending before this Forum and therefore prays to allow the petition. The third respondent has not filed any counter to object the petition and respondents-6, 7 and 8 remained absent. However, the counsels for the first respondent and the respondents-4 and 5 vehemently opposed the petition stating that the petition is very much belated and filed at the stage of argument and the documents are not necessary for the determination of the main dispute in the complaint and therefore liable to be dismissed with exemplary cost.

(b) The learned counsel for respondents-4 and 5 submitted that the respondents have no objection for marking documents A to A-50 and have objection for other documents and the petitioner is put to strict proof of all the documents. The learned counsel for the first respondent relied on the following decisions in support of his contentions against the petition:

- 1. *Golden Rock World Trade Ltd Vs Veejay Lakshmi Engineering Works Ltd. - 2007 SCC Online Del 1140 by Delhi High Court.***

TRUE COPY

leg  
11/07/2022

**2. Polyfor Limited Vs A.N.Goenka and Others - 2016 SCC Online Del 2333 in the High Court of Delhi.**

**3. Shri Ramanand Vs Delhi Development Authority - 2016 SCC Online Del 4925 in the High Court of Delhi.**

**4. Punjab & Sind Bank Vs Dewa Properties Limited - MANU/TN/1335/2019 in the High Court of Madras.**

(c) The application has been filed under order 41, Rule 27, read with section 151 of the CPC. There is no doubt that as pointed out by the counsel for the first respondent, order 41, Rule 27, of the CPC is applicable only in appellate proceedings before the appellate court or forum. However, the quoting of wrong provision of law is not a ground to dismiss the petition. The petitioner as party-in-person has filed the above petition. The dismissal of the petition for wrong quoting of provision of law will lead to denial of legitimate rights of the petitioner. Section 71 of the RERA Act deals with the power of the Adjudicating Officer to adjudicate compensation and gives power to the Adjudicating Officer to allow the evidence, which may be useful for or relevant to the subject matter of enquiry. Hence the objection of the first respondent on the provision of law is liable to be rejected.

(d) The learned counsels for the respondents also pointed out that the documents sought to be filed have no relevance or basis for the determination of the petition and the petition is filed in a belated stage. No doubt the petition has been filed at a belated stage i.e. at the final stage of argument of the case. The petitioner has stated that she was not privy to some important events, the cognizance and substantiation of which shall prove to be very valuable evidence linked to her complaint. The documents

TRUE COPY

1/10/2022

filed by the petitioner are the additional affidavit of the first respondent before the Madras High Court, the screenshot of the appeal which was contested, withdrawn and disposed, the copy of the affidavit in perjury petition filed by the petitioner before the High Court, the claim details before the liquidator and the NCLT order for the claim of respondents 3 to 5. Therefore, the respondents cannot have any serious objection for marking the same subject to relevancy. It is also relevant to note that in *P.Narayanan Vs Kasi – 2009 (5) CTC 822*, the Hon'ble Madras High Court held that ***"documents filed belatedly even after the stage of commencement of trial could be received and a hyper-technical approach should not be taken. Court should follow liberal approach and do complete justice by giving full opportunities to contesting parties."***

(e) The learned counsel for the first respondent relied on various reported decisions in support of his contention that the documents which are filed at the belated stage are liable to be rejected. On perusal of the reported decisions, it is seen that, all the decisions were rendered by the respective Hon'ble Courts in the suits for various reliefs. It is very much relevant to point out that the *Hon'ble Supreme Court in Union of India Vs Amrit Lal Manchanda, in 2004 (3) SCC 75 and other cases in 2004 (4) SCC 205, 2002 (3) SCC 496 and 533 clearly laid down that precedents and observations made therein are to be read in the context in which they appear and circumstantial flexibility, one additional or different fact may make a world of difference. It is often reiterated that judgments cannot be read as Euclid's theorem. The words of Lord Denning in the matter of applying precedents which had been oft quoted with approval in more than one judgment of the Supreme Court is*

TRUE COPY

leg  
11/07/2022

*that while applying precedents "each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect"*. Therefore it is clear that the Court must judge each case on its own facts and circumstances. So far as the proceedings before this Forum is concerned, summary procedure is followed in deciding the case by allowing the parties to file proof affidavit with supporting documents. No witnesses on either side are subjected to any cross examination. Therefore, this Forum is of the opinion to do complete justice to both the sides and the parties are to be allowed liberally to file the additional evidences and documents.

(f) Considering all the above circumstances, this Forum is of the view that the petition is to be allowed by receiving the additional proof affidavit of the petitioner/complainant and also accepting the documents to be marked on her side. Thus the point is answered accordingly.

**In the result, the interim application is allowed.**

Sd/- 11.07.2022  
G. SARAVANAN  
ADJUDICATING OFFICER  
TNRERA, CHENNAI.

CERTIFIED TO BE TRUE COPY

N.   
11/7/22  
Administrative Officer