

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

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

I.A. SR No. 41 of 2023

in

C.C.P. No. 118 of 2022

M/s. Bahri Realty Management
Services Pvt. Ltd.

.... **Applicant / 2nd Respondent**

Vs.

1. Anandam Villa Owners Welfare
Society (AVOWS)

.... **1st Respondent /
Complainant**

2. M/s. Bahri Estates Pvt. Ltd.

.... **2nd Respondent /
1st Respondent**

Heard on : 26.04.2023

Delivered on : 07.06.2023

ORDER

The above interlocutory application is filed by the applicant/ 2nd respondent under section 37 of the Real Estate (Regulation and Development) Act, (shortly called as "RERA Act") seeking to reject the complaint on the ground that the impugned project is a completed project and the Authority has no jurisdiction against the applicant.

2. The affidavit of the General Manager – Operations of the applicant company filed in support of the application. It is stated that the applicant company is engaged in providing service with the contractors. The above complaint has been filed by the 1st respondent/complainant for compensation and other reliefs. The 1st respondent/complainant already filed a complaint in C.No.26 of 2022 for various directions and other reliefs against the 2nd respondent and the applicant. The applicant filed an interlocutory application on maintainability of the complaint before the Authority as the

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project was a completed project in the year 2010 itself. Orders are reserved after hearing of the application by the Authority. It is essential to decide the preliminary objection on maintainability of the complaint. The complaint itself is beyond the scope of the RERA Act. The applicant is only a service provider and is not a promoter as defined under section 2(zk) of the RERA Act. The project is only a layout project and is also a completed project. Hence, the applicant prays for the rejection of the complaint.

3. In their counter, the 1st respondent/complainant denied all the allegations and averments. The applicant and the 2nd respondent are group companies and the same person is the managing director of both the companies. All the documents entered with the 2nd respondent by the 1st respondent contained clauses on maintenance to be carried out only by the applicant alone. The applicant is providing essential services on behalf of the 2nd respondent under section 11(4)(d) of the RERA Act. It is not a plotted layout. The project falls under the RERA Act and the Rules. Therefore, the respondent prays for the dismissal of the application with exemplary cost.

4. The 2nd respondent has not filed any counter.

5. Heard both sides. The application is filed under section 37 of the RERA Act (wrongly mentioned as TNRERA ACT in the application). Section 37 of the Act deals with the powers of the Authority to issue directions. As per section 2(i) of the Act, 'Authority' means the Real Estate Regulatory Authority established under sub-section (1) of section 20. Under section 2(a) of the Act, 'Adjudicating Officer' means the Adjudicating Officer appointed under sub-section (1) of section 71.

6. The above definitions make it very clear that powers of the Authority to issue directions cannot exercise by the Adjudicating Officer. Therefore, the application/petition filed under RERA Act is not maintainable before this Forum of Adjudicating Officer.

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7. It is also relevant to note that similar petition in I.A. No.18 of 2022 in C.No.26 of 2022 filed by the applicant before the Authority was dismissed by the Authority by an order dated 20.04.2023 dismissing the application and holding that the complaint No.26 of 2022 is maintainable.
8. Considering all the above facts and circumstances, it is held that the above application/petition is liable to be dismissed as not maintainable.

In the result, the petition is dismissed.

**Sd/- 07.06.2023
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI**

