

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

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

**I.A. S.R.No.44 of 2023
in
CCP No.280 of 2021**

Dr. Vandana Parvesh

.... **Petitioner/Complainant**

-Vs-

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

.... **Respondents/Respondents**

Complainant : Rep. by Mrs. Vandana Parvesh (Party in Person)
Respondents (R1) : Rep. by Mr. Thriyambak J. Kannan, Advocate
(R3 to R5) : Rep. by Mr. N. Ramakrishnan, Advocate
(R2, R6, R7 & R8) : Called Absent.

Heard on : 08.05.2023

Delivered on : 15.05.2023

ORDER

The above interim application is filed by the petitioner/complainant seeking to take on file the additional proof affidavit and all the documents filed with the case as evidence.

2. Except the first respondent, other respondents have not filed any counter. In the counter of the first respondent, it is contended that the petitioner/complainant is seeking to take on record the additional documents

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at this stage of final argument and the same is belated and inadmissible and amounts to violation of the proper procedure laid down by the law and is liable to be rejected and the petitioner is responsible for causing undue delay in the process of marking documents and has filed multiple affidavits for marking various additional documents and has marked 67 documents in total and seeks to mark another 68 documents citing them as preliminary documents and the petitioner has to show sufficient cause to mark the documents and negligence on the part of the petitioner is not a satisfactory ground to permit to mark additional documents and if the petitioner is allowed to mark the additional documents, it would be an abuse of process of law and therefore the application which is liable to be rejected is to be dismissed with cost.

3. Heard both sides. It is not in dispute that the application has been filed by the petitioner at the stage of argument of the case and after both the parties have already marked documents on their sides. The petitioner has filed additional proof affidavit to mark the additional documents on her side.

4. Rule 38 of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017 prescribes the manner of filing a complaint with the adjudicating officer and the manner of holding an inquiry by the adjudicating officer. Under the Rule, sub-rules 38 (d) and (e) read as follows respectively:

'In case the adjudicating officer is satisfied on the basis of the submissions made that there is need for further hearing into the complaint it may order production of documents or other evidence on a date and time fixed by him'

and

'The adjudicating officer shall have power to carry out an inquiry into the complaint on the basis of documents and submissions'.

Admittedly, the RERA Act prescribes a summary procedure for disposal of complaints filed under the Act.

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5. The counsel for the first respondent vehemently opposed the application as the application is filed at the stage of final argument and belatedly to mark the additional documents and the same amounts to violation of the procedure laid down by law. In various decisions, the Hon'ble Supreme Court has laid down that,

Procedural law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaids and not the mistresses, a lubricant, not a resistant in the administration of justice.

6. Considering all the above circumstances and to decide the case on merits and in the interest of justice, it is necessary to allow the parties to produce and mark the documents relied by them even if it is produced belatedly. Therefore, this application is ordered to be numbered and allowed and the petitioner is permitted to file the additional proof affidavit and also mark the additional documents in support of her case.

Hence, the petition is allowed.

Sd/- 15.05.2023
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI

