



**BEFORE THE TAMIL NADU REAL ESTATE  
REGULATORY AUTHORITY (TNRERA)  
(Tamil Nadu, Andaman & Nicobar Islands)  
at Egmore, Chennai – 600 008**

**[Under the Real Estate (Regulation and Development) Act, 2016]**

**C.No.77 of 2020**

**10<sup>th</sup> day of March, 2021**

**Coram : Thiru K. Gnanadesikan, I.A.S.(Retired), Chairperson  
Er. S. Manohar, Member  
Adv. V. Jeyakumar, Member**

Thiru Senthil Selvaraju ... Complainant

Versus

M/s. Appaswamy Real Estate Limited ... Respondent  
Partnership Firm  
Rep. by Authorised Signatory  
Thiru T.S.S.Krishnan

This Complaint came up for final hearing before the Authority in the presence of the Complainant appeared as party in person and of Thiru T.S.S.Krishnan, Authorised signatory of the Respondent Company and upon hearing the arguments of both the parties, this Authority passes the following order:

## **FINAL ORDER**

The Complainant had purchased a flat in "L" Block, Flat No.401 in Appaswamy Bloomingdale project.

2. The Complainant has stated that non opening of lefthand side main gate is causing lot of inconvenience while entering into the complex. This is against the plan and drawing shown while purchasing the flat. These gates were initially open when the Complainant took possession of the apartment but at a later stage this gate has been closed and only a central gate is opened.

3. The Complainant has prayed for the relief for opening the lefthand end gate for movement of vehicles and persons.

4. The Respondent Promoter M/s.Appaswamy Real Estate Limited in their Counter affidavit has stated that this Complaint is liable to be dismissed as the flat purchased by the Complainant is coming under Bloomingdale Phase-1 project which is not falling under RERA Act and hence the same may not be within the jurisdiction of this Authority.

5. The Respondent Promoter has further stated that they have never raised any objection to use the lefthand end gate for movement of vehicles. The Complainant is using the present exit and entry gate for movement of vehicles for the past 4 years. The Respondent Promoter has further stated that the alleged inconvenience to the Complainant is only due to the road developed by the Municipal Authorities which is lower than the other gates nearby. The ramp if done will occupy part of the road which is not permissible as per the Corporation rules. They have also

denied that the Respondent is reasoning with some locals, etc. and they have never restricted the usage of lefthand end gate.

6. In the written arguments, the Complainant has stated that as a resident, he needs all the gates to be open for movement of vehicles and persons in such a big apartment Complex with more than 710 flats where more than 3000 people may reside. The Complainant has also stated that while the Association of Allottees was formed in April, 2019, the Society did not take over the maintenance.

7. The Complainant has prayed that the Respondent Promoter may provide the ramp and open all the gates for vehicle movement and in particular the gate in question.

8. In the written arguments, the Respondent Promoter have argued that if ramp is constructed will occupy part of the road which is not permissible as per Corporation rules. The alleged inconvenience of the Complainant is only due to road developed by the Municipal Authorities which is lower than the other gates nearby.

9. The Respondent Promoter have also stated that the maintenance is being managed by the Association of Allottees. The Respondent Promoter has also obtained Completion Certification for this project.

10. This Authority has examined the Complaint, Counter Affidavit filed by the Respondent Promoter and the written arguments filed by both sides carefully.

11. It is seen that the application for Completion Certificate has been filed on 04.04.2017 and the Completion Certificate has been issued on 06.06.2017.

12. The Ruling of the Division Bench of the Hon'ble High Court of Madras in its order dated 15.09.2020 in CMSA No.22 of 2019 in Subashini Thulasiram Vs. M/s. SPR & RG Constructions Pvt. Ltd. holds the field. As per this Ruling the real estate projects for which application for Completion Certificate have been filed on or before 01.05.2017 are exempt from Registration with this Authority. Therefore, this "L" Block in which the Complainant is an Allottee is exempt from registration with this Authority.

13. However, the Hon'ble Tamil Nadu Real Estate Appellate Tribunal in its order in Appeal No.75/2019 dated 09.11.2020 in Olympia Grande Apartment Owner's Welfare Association Vs. M/s. KSM Nirman Private Limited has held that the RERA provisions specifically contemplated with regard to redressal of grievances under the RERA Act irrespective of registration since the jurisdiction of Civil Court is barred under Section 79 of the Act.

14. Therefore, this Authority holds that this Complaint is maintainable and this Authority has jurisdiction to adjudicate this Complaint.

15. It is seen from the plan and drawing approved by Chennai Metropolitan Development Authority in their Planning Permission there is only one entry and one exit gate. Therefore, there is no deviation to the approved plan by the Respondent Promoter.

16. Therefore, this Authority holds that the relief sought for by the Complainant is not feasible of compliance as per the approved plan.

17. Accordingly, this Complaint is dismissed.

Sd/-...10.03.2021

Sd/-...10.03.2021


Sd/-...10.03.2021


MEMBER (M), TNRERA

MEMBER (J), TNRERA

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

  
ADMINISTRATIVE OFFICER

  
10.3.21.