



**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]

**I.A.No.54/2022 in C.No.118/2022 &
I.A.No.71/2022 in C.No.119/2022**

2nd day of June, 2023

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

I.A.No.54 of 2022 in Complaint No.118/2022

Mrs. Srimathy Sridhar

.....Petitioner/Complainant

Versus

1. M/s. Innovative Homes & Developers (P) Ltd.
Rep. by its Managing Director

.....1st Respondent/Respondent

2. ICICI Bank Limited
Rep. by its Branch Manager

.....Proposed 2nd Respondent

I.A.No.71/2022 in Complaint No.119/2022

Mrs. Bhavani Venkateshwaran

.....Petitioner/Complainant

Versus

1. M/s. Innovative Homes & Developers (P) Ltd.
Rep. by its Managing Director

.....1st Respondent/Respondent

2. ICICI Bank Limited
Rep. by its Branch Manager

.....Proposed 2nd Respondent

The above Interim applications came up for final hearing before this Authority in the presence of M/s. Ashwin Shanbhag - Counsel for Petitioners/Complainants and of M/s. Gupta and Ravi - Counsel for Respondent. The Authority passes the following order:

COMMON ORDER

The Petitioners/Complainants have filed the present applications to implead ICICI Bank, Thiruvannamiyur Branch as 2nd Respondent in the present Complaints. The Petitioners/Complainants have also submitted that they had already stated in the Complaints that the 1st Respondent has failed to provide schedule of payments made by the 1st Respondent with respect to the construction of the Residential Building on the larger extent and owing to the request from the Petitioners/Complainants' auditor to file income tax returns, the Petitioners/Complainants have been repeatedly asking for the same from the Respondent and the same has been in vain.

2. The Petitioners/Complainants have further submitted that the 1st Respondent at para 8 of its Counter has stated that it has annexed the schedule of payments made to the owners as Annexure-1 and has also annexed the same in the form of a tabular column at page 20 of the Counter and that the same has also been shared with Mr.N.Kannan (Complainant Tmt. Srimathy Sridhar's uncle) in the past. The 1st Respondent has also stated that it has in fact paid the rental compensation of Rs.60,000/- as contemplated under Clause 15 of the Joint Development Agreement. The Petitioners/Complainants also state that the document Annexure-1's heading reads as "Payment made to Adyar

Landowner, all payments are made to Mrs. Lakshmi Subramaniam's account" and sets out a series of 67 alleged transactions with details of the date of transaction, amount transacted and mode of payment. It is also submitted by the Petitioners/Complainants that a mere perusal of the entries in the said document makes it amply clear that most of the transactions have been done through NEFT from the 1st Respondent's bank accounts to the account of Late Mrs.Lakshmi Subramaniam, Petitioner/Complainant Tmt. Srimathy Sridhar's mother and one of the owner. However, the NEFT transaction receipts have not been furnished by the Respondent.

3. The Petitioner/Complainant Tmt.Srimathy Sridhar has stated in her Petition in I.A.No.54/2022 that her mother Mrs. Lakshmi Subramaniam passed away on 05.03.2022 and being the daughter and legal heir of Mrs.Lakshmi Subramaniam, she is well aware of the fact that her mother had opened this bank account in ICICI Bank, Thiruvanmiyur Branch, Chennai to receive the proceeds of the sale and joint development from the 1st Respondent. The Complainant Tmt.Srimathy Sridhar has also stated that in order to ascertain the payments made by the 1st Respondent Complainant Tmt. Srimathy Sridhar wrote letter and e-mail dated 28.09.2022 to the proposed 2nd Respondent ICICI Bank, Tiruvanmiyur Branch in her capacity as Mrs.Lakshmi Subramaniam's legal heir to furnish a copy of the bank statement, whereas, the proposed 2nd Respondent replied by e-mail dated 11.10.2022 to the Complainant Tmt.Srimathy Sridhar stating that since the account is in the form of either or survivor

i.e. the Petitioner/Complainant's uncle Mr.N.Kannan who is a joint account holder and hence it can be shared to the survivor only and not to the Petitioner/Complainant.

4. Therefore, the Petitioners/Complainants in view of the above mentioned developments and pursuant to the schedule of payments shared by the 1st Respondent, it is of utmost importance that the proposed 2nd Respondent be impleaded as the 2nd Respondent in this matter so that the Petitioner/Complainant can seek for this Authority to direct the Proposed 2nd Respondent to furnish the bank account statement to verify the alleged transactions made by the 1st Respondent to the Petitioner/Complainant's mother.

5. Therefore, the Petitioners/Complainants have submitted that the Proposed 2nd Respondent will be a necessary party for this Authority to adjudicate the present Complaints filed by them.

6. In the Counter Affidavit in the IAs, the 1st Respondent Developer has submitted that the plea of the Complainants to implead the proposed 2nd Respondent namely ICICI Bank as they have become a proper and necessary party to the dispute is completely false and baseless and the Complainants are put to strict proof of the same. The 1st Respondent has further submitted that the 2nd Proposed Respondent ICICI Bank is a third party to the proceedings and is in no way connected to the present dispute between the Complainants and this Respondent. Also it is submitted by the 1st Respondent that the 2nd Respondent is not a privity to the contract or to the Joint Development Agreement entered into between the

1st Respondent and the Complainants. The 1st Respondent has also mentioned that the disputes that are currently pending or that have arisen before this Authority have solely arisen through the Joint Development Agreement entered into between the Complainant and the 1st Respondent.

7. The 1st Respondent has further submitted that when the proposed 2nd Respondent ICICI Bank is not even a party to the Joint Development Agreement through which the subject matter of the dispute has arisen, the proposed 2nd Respondent ICICI Bank can be regarded or be treated as a necessary or proper party to the instant dispute. The proposed 2nd Respondent cannot be regarded as a necessary and proper party to the instant dispute just for the sake of convenience of the Complainants for furnishing of the Bank account statements to verify the transactions undertaken by this Respondent. Hence, the plea of the Complainants to implead the 2nd proposed Respondent ICICI Bank to the instant dispute pending before this Regulatory Authority is not maintainable and is liable to be dismissed in limine.

8. Further it is submitted by the 1st Respondent that it has been prompt in making his payments to the Complainants and further has also produced a schedule of all the payments made to Mrs. Lakshmi Subramaniam as stated in Annexure 1 to the typed set documents filed by this Respondent. Also the 1st Respondent has stated that the Complainant Tmt. Srimathy Sridhar as well as her brother and sister were completely aware of all the payments made to Mrs. Lakshmi Subramaniam and at no

point of time any instruction was given by any of the parties to apportion and make payment separately to the respective co-owners.

9. The 1st Respondent has also stated that it had shared all the payment details to one Mr.N.Kannan who is the Complainant Tmt. Srimathy Sridhar's uncle and more importantly also the joint account holder. Therefore, the Complainant Tmt. Srimathy Sridhar is indeed aware of all the series of transactions made by the 1st Respondent to Mrs. Lakshmi Subramaniam.

10. Hence, the 1st Respondent has submitted that the 2nd proposed Respondent ICICI Bank is not even a privity to the Joint Development Agreement entered into only between the Complainants and the 1st Respondent and is a complete stranger to the present dispute pending before this Authority. Therefore, the 1st Respondent has submitted that the 2nd proposed Respondent is neither a necessary nor a proper party to the present dispute pending before this Regulatory Authority.

11. This Authority has examined the two IAs filed by the Complainants and the Counter Affidavit filed by the 1st Respondent in respect of these IAs and arguments and written submission of arguments of both sides carefully.

12. The Complainants have sought to implead the ICICI Bank, Thiruvanmiyur Branch as 2nd Respondent in these Complaints, since they require details of payments made by the 1st Respondent in order to file IT returns, as they have not been able to get the same from the Respondent Promoter.

13. The Respondent Promoter has submitted that ICICI Bank is not a necessary party to these Complaints and all payments have been made to the deceased mother of the Complainant who is one of the land owners.

14. The Respondent Promoter has also contended that the ICICI Bank is a 3rd Party to the proceedings and is not a privity to the Joint Development Agreement entered between the 1st Respondent and the Complainants.

15. It is also seen from the typed set of papers filed by the Complainants that ICICI Bank informed Tmt. Srimathy Sridhar the Complainant herein that as the account is in the form of either or survivor (E or S), the details can be shared to the Survivor only and hence they are unable to provide the bank statement to the Complainant Allottee.

16. The Respondent Promoter has also furnished the details of payment made by the Respondent Promoter to the land owners on page No.20 of the typed set of documents filed by the Respondent and the payment vouchers on page No.23 to 28 of the same typed set of documents filed by the Respondent Promoter.

17. This Authority finds considerable merit in the submissions of the Respondent Promoter that it has furnished the details of payments as already mentioned and that the ICICI Bank has no privity to the Joint Development Agreement entered between the Complainants and the Respondent Promoter.

18. Therefore, this Authority holds that the ICICI Bank is not a necessary party to be impleaded in these two Complaints Nos.118/2022 and No.119/2022.

19. Accordingly, this Authority dismisses the I.A.Nos.54/2022 in Complaint No.118/2022 and I.A.No.71/2022 in Complaint No.119/2022 and will proceed with adjudication of these two Complaints. The date and time of hearing of these two Complaints will be intimated separately.

Sd/-...02.06.2023

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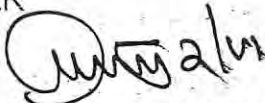
Sd/-...02.06.2023

MEMBER (M), TNRERA

MEMBER (J), TNRERA

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER


F ADMINISTRATIVE OFFICER
2.5.23