



**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]

E.P.No.27/2023

in

C.No.480/2019

15th day of December, 2023

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

1) Thiru N. Sriram] Execution Petitioners/
2) Tmt. R.D. Dhanalakshmi] Complainants

Versus

M/s. Casagrand Builders Pvt. Ltd.] Respondent/
] Respondent

The above Execution Petition came up for final hearing before this Authority in the presence of M/s. Hari Radhakrishnan - Counsel for Petitioners and of M/s. Ganesh & Ganesh - Counsel for Respondent. This Authority passes the following order.

ORDER

The above Execution Petitioners have filed this Execution Petition for enforcement of the Orders of this Authority and to direct the Respondent to register all phases of the project "Casagrاند Bloom" under the category Group Development Building Project and to refund the excess cost of UDS of Rs.1,13,940/- and the cost of construction of Club house of Rs.91,701/- to the Execution Petitioner.

2. The Respondent Promoter in its Counter Statement has submitted that the Execution Petitioners had preferred an Appeal before the Hon'ble Tamil Nadu Real Estate Appellate Tribunal against the order passed by this Authority in C.No.480/2019 dated 03.09.2020. The said Appeal No.71 of 2020 was dismissed by the Hon'ble Tamil Nadu Real Estate Appellate Tribunal on 02.11.2021.

3. The Respondent has further submitted that thereafter, the Execution Petitioners have filed 2nd Appeal in CMSA No.17 of 2021 before the Hon'ble High Court of Madras against the Order passed by the Hon'ble Tamil Nadu Real Estate Appellate Tribunal on 02.11.2021 and the CMSA No.17/2021 is pending adjudication by the Hon'ble High Court of Madras.

4. The Respondent Promoter has also submitted that the substantial question of law raised by the Execution Petitioner in CMSA No.17/2021 also mentions for determination whether the order passed by the Hon'ble Tamil Nadu Real Estate Appellate Tribunal in directing the Appellant to approach this Authority under Section 40 is maintainable. The Respondent Promoter has further submitted that when the question of law is specifically raised

for adjudication before the Hon'ble High Court of Madras in CMSA No.17 of 2021, in parallel the Execution Petitioner is not entitled to file this Execution Petition under Section 40 of the Act.

5. In the Rejoinder, the Execution Petitioners have not made any specific submissions on this point raised by the Respondent Promoter.

6. This Authority has carefully perused the CMSA No.17 of 2021 filed by the Execution Petitioners which has been enclosed by the Execution Petitioner (page No.49 – 66 of the typed set of documents filed by the Execution Petitioner). It is seen under the heading substantial question of law, the point No.4 is whether the Hon'ble Appellate Tribunal is correct in directing the Appellant to approach the learned Regulatory Authority under Section 40 of the Real Estate (Regulation and Development) Act, 2016 (page No.58 of the typed set of documents filed by the Execution Petitioners).

7. Therefore, this Authority finds considerable merit in the contention of the Respondent Promoter that the Execution Petitioner having raised this question of law before the Hon'ble High Court of Madras in the 2nd Appeal is not entitled to file the present Execution Petition under Section 40 of the Act before this Authority.

8. Accordingly, this Authority holds that the Execution Petition is not maintainable at this stage pending adjudication of the CMSA No.17 of 2021 by the Hon'ble High Court of Madras.

9. The Execution Petitioners are at liberty to move this Authority after disposal of the 2nd Appeal by the Hon'ble High Court of Madras

Sd/-...15.12.2023

MEMBER (M), TNRERA

Sd/-...15.12.2023

MEMBER (J), TNRERA

Sd/-...15.12.2023

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER


LAW OFFICER, TNRERA

M
15-12-23