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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.655 OF 2021

AND

W.M.P.NO.716 OF 2021

Grove OMR Properties Pvt. Ltd.,
Rep. by its Director
Mr.Subramani Ganesan

...Petitioner

Vs.

1.The Adjudicating Officer,
TNRERA, Egmore,
Chennai - 600 008.

2.Mr.David Joseph

...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the Adjudicating Officer, TNRERA, Egmore, Chennai is having no jurisdiction or authority to hear or entertain C.C.P.No.147 of 2020 filed by respondents 2 and 3 herein as per Rule 2(h)(iii) of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017.

For Petitioner : Ms.Kaavya Silambanan

For Respondents : M/s.R.Varalakshmi for R1
No Appearance
Mr.C.A.Theagarajan for R2

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Declaration declaring that the Adjudicating Officer, TNRERA, Egmore, Chennai, is having no jurisdiction or authority to hear or entertain C.C.P.No.147 of 2020 as per Rule 2(h)(iii) of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017.

2.The case of the petitioner is that the petitioner is a builder/ promoter and has taken up large housing project



constructing residential apartments at Padur and the project consists of five blocks named as Galaxy, Imperial Red etc. During May, 2013, the second respondent agreed to purchase one flat in Imperial Red block bearing No.IR 66 with built up area of 998 sq.ft. and also purchased undivided share of the land of 286 sq.ft. and construction agreement was entered into between the petitioner and the second respondent and as per the agreement, the project was to be completed with 24 months from the date of signing of the agreement. Due to some unforeseen circumstances, there was delay in completing the project and hence the second respondent was offered another apartment of high value in the adjoining block, however, the second respondent refused to accept the same.

3.The further case of the petitioner is that the second respondent filed C.C.P.No.147 of 2020 before the Tamil Nadu Real Estate Regulation Authority (in short TNRERA) at Egmore, Chennai, claiming refund of the entire amount paid, namely, Rs.60,700,465/- (including pre-payment charges) with interest at 12% till the date of realization of the entire amount, loss of interest on Rs.60,700,465/- at 18% from the date of payment till the date of filing the complaint and compensation for mental agony and litigation and miscellaneous expenses of a sum of Rs.2,00,000/- and TNRERA issued notice to the petitioner. According to the petitioner, TNRERA is having no jurisdiction or authority to hear or entertain C.C.P.No.147 of 2020. Hence, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner would submit that without going into the merits of the case, it would suffice if this Court permits the petitioner to file objection/ reply including jurisdiction and maintainability before TNRERA/ first respondent and issue direction to the first respondent to consider the same and pass appropriate orders along with the issue raised by the second respondent.

5.The learned counsel appearing for the second respondent would submit that this Court may issue direction to the first respondent to dispose of the complaint of the second respondent in C.C.P.No.147 of 2020, within a reasonable time frame.

6.In view of the above, this Court permits the petitioner to canvass all the points including jurisdiction and maintainability by way of objection/ reply before the first respondent and if any such objection/ reply is filed by the petitioner, the first respondent shall consider the same and pass appropriate orders in C.C.P.No.147 of 2020, within a period of six weeks from the date of receipt of objection/ reply, that is to be filed by the petitioner.



7.The writ petition is accordingly disposed of. No costs.
Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

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To

The Adjudicating Officer,
TNRERA, Egmore,
Chennai - 600 008.

+1cc to M/s.Kaavya Silambannan Associates, SR.No.61820

W.P.No.655 of 2021
And
W.M.P.No.716 of 2021

NMI (CO)
RVM(22/12/2021)