

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Second day of February Two Thousand Twenty One

PRESENT

THE HON`BLE MR JUSTICE M.SATHYANARAYANAN

AND

THE HON`BLE MR JUSTICE A.A.NAKKIRAN

WP.NO.3353 OF 2020

AND

WMP.NO.2198 OF 2021

M/S.TK HOUSING AND CONSTRUCTIONS [PETITIONER IN
REP.BY ITS SOLE PROPRIETOR BOTH THE PETITIONS]
MR.T.KUMAR, HAVING OFFICE AT PLOT NO.1,
THIRUKUMARAN NAGAR, JASMINE GROVE,
EACHANKARANAI, BEHIND MAHINDRA WORLD CITY,
CHENNAI-603002.

Vs

1 THE TAMILNADU REAL ESTATE [RESPONDENTS IN BOTH
APPELLATE TRIBUNAL (TNREAT), THE PETITIONS]
NO.1-A, CMDA TOWER, 2ND FLOOR,
GANDHI IRWIN BRIDGE ROAD,
CHENNAI - 600 008.

2 THE TAMILNADU REAL ESTATE
REGULATORY AUTHORITY, (TNRERA)
NO.1-A, CMDA TOWER, 1ST FLOOR,
GANDHI IRWIN BRIDGE ROAD,
CHENNAI - 600 008.

3 THE ADJUDICATING OFFICER,
OFFICE OF THE ADJUDICATING OFFICER, THE
TAMILNADU REAL ESTATE REGULATORY AUTHORITY
(TNRERA) NO.1-A, CMDA TOWER, 1ST FLOOR,
GANDHI IRWIN BRIDGE ROAD,
CHENNAI - 600 008.

4 B.GEETHPRIYA ARIVAZHAGAN

5 ARIVAZHAGAN MOORTHY

Writ Petitions under Article 226 of the Constitution of India
praying that in the circumstances stated therein and in the
<https://hcservices.ecourts.gov.in/hcservices/>

respective affidavits filed therewith the High Court will be pleased to pass an order in WRIT OF CERTIORARI or order or direction in the nature of writ, calling for the records in the impugned order dated 30.01.2020 passed in Appeal No. 60/2019 on the file of the 1st respondent and quash the same and all further proceedings thereon (in WP.NO.3353 OF 2020) and

(ii) To grant interim injunction restraining Respondents 3 to 6 from making any recovery from Petitioners salary towards alleged excess payment (in WMP.NO.2198 OF 2021) pending disposal of the above Writ Petition (WP.NO.3353 OF 2020).

Order : These petition coming on this day for hearing upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of MR.B.VIJAY, Advocate for the petitioner in both the petitions and of MR.K.SURENDRANATH, Advocate for the first respondent, in both the petitions and of MR.ARIVAZHAGAN MOORTHY, PARTY IN PERSON for the fifth respondent, in both the petitions, the court made the following order:-

(Order of the Court was made by **M.SATHYANARAYANAN, J.**)
(Through Video Conferencing)

W.M.P.No.2198 of 2021 :

The order passed by the 1st respondent Authority, dated 30.01.2020, in Appeal No.60 of 2019, is challenged in W.P.No.3353 of 2020.

2.The writ petition was filed on 06.02.2020 and it was numbered on 10.02.2020 and the matter was listed for admission on 19.11.2020, and on that date, attention of this Court has been invited to Section 58 of the Real Estate (Regulation and Development) Act, 2016, and the counsel for the petitioner made a submission that the petitioner has been advised to file a petition for conversion of the writ petition into Civil Miscellaneous Appeal by also raising substantial questions of law. Accordingly, this Miscellaneous Petition is filed.

3.The learned counsel appearing for the petitioner would submit that, in the light of the advice given, instead of filing Civil Miscellaneous Second Appeal, the writ petition came to be filed inadvertently, and prays for conversion of this writ petition into Civil Miscellaneous Second Appeal, by raising substantial questions of law enumerated in Para No.17 of the affidavit filed in support of this Miscellaneous Petition.

4.Per contra, the 5th respondent appearing as Party-in-Person would submit that, despite the fact that the petitioner is aware of the said legal provision, has deliberately filed the writ petition in order to gain time, and prays for dismissal of this Miscellaneous Petition.

and also perused the materials placed before it.

6.It appears that in the light of the advice given, instead of invoking Section 58 of the Real Estate (Regulation and Development) Act, 2016, by filing Civil Miscellaneous Second Appeal by raising substantial questions of law, the present writ petition came to be filed. It is also to be noted at this juncture that the impugned order is dated 30.01.2020, and without loss of time, the writ petition came to be filed on 06.02.2020 and was numbered on 10.02.2020 and was taken up for hearing on 19.11.2020 after the e-mail communication of the 5th respondent. This Court is also satisfied with the reasons assigned in the affidavit filed in support of this Miscellaneous Petition.

7.Therefore, **W.M.P.No.2198 of 2021 is ordered** and the Registry is directed to convert the writ petition in W.P.No.3353 of 2020 into Civil Miscellaneous Second Appeal, if the papers are otherwise in order, and list the same for hearing before the Hon'ble Roster Bench, as expeditiously as possible.

-sd/-
02/02/2021

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE TAMILNADU REAL ESTATE
APPELLATE TRIBUNAL (TNREAT),
NO.1-A, CMDA TOWER, 2ND FLOOR,
GANDHI IRWIN BRIDGE ROAD,
CHENNAI - 600 008.

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3 THE ADJUDICATING OFFICER,
OFFICE OF THE ADJUDICATING OFFICER, THE
TAMILNADU REAL ESTATE REGULATORY AUTHORITY
(TNRERA) NO.1-A, CMDA TOWER, 1ST FLOOR,
GANDHI IRWIN BRIDGE ROAD,
CHENNAI - 600 008.

4 THE ASSISTANT REGISTRAR
AE SECTION
HIGH COURT
MADRAS-104.

5 THE SUB ASSISTANT REGISTRAR
AE SECTION
HIGH COURT
MADRAS-104.

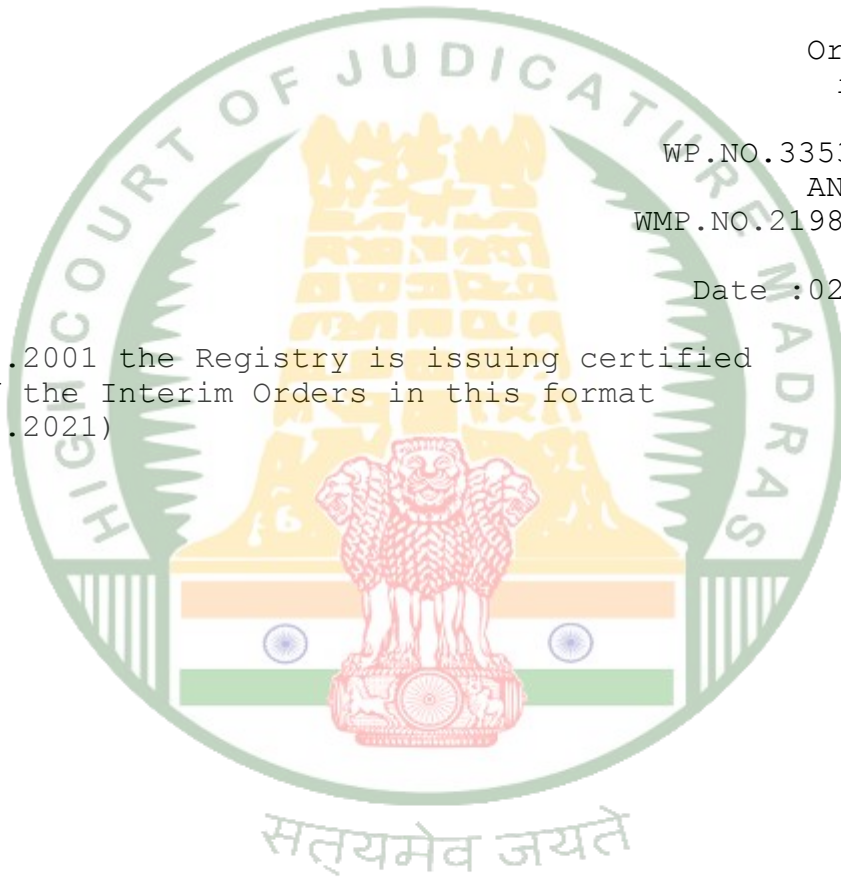
C.C. to MR.B.VIJAY Advocate SR.NO.556

Order
in

WP.NO.3353 OF 2020
AND
WMP.NO.2198 OF 2021

Date :02/02/2021

From 26.2.2001 the Registry is issuing certified
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UM (17.02.2021)



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