



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.S.A.NO.8 OF 2022

M/s.Manju Foundations Pvt.Ltd.,
Rep by its Managing Director,
K.M.Vidhyasagar, S/o., Kasi,
No.8/57, Sapthaswara Apartments,
1st Avenue Ashok Nagar,
Chennai - 600 083

.. Appellant/Respondent

Vs.

V.Alavandhar

.. Respondent/Complainant

Prayer: Civil Miscellaneous Second Appeal filed under Section 58 of TNRERA Act, 2017 read with Section 100 of C.P.C to set aside the order dated 06.12.2021 passed by the Tamil Nadu Real Estate Appellate Tribunal, Chennai in M.A.No.157 of 2021 in Appeal No.114 of 2021 on the file of TNREAT, Chennai.

For Appellant : Mr.Krishna Prasad.R
for M/s.Sarvabhauman Associates

JUDGMENT

[delivered by PUSHPA SATHYANARAYANA, J.]

The Civil Miscellaneous Second Appeal is directed against the order passed in a waiver application in M.A. No.157 of 2021, which was dismissed by the Tamil Nadu Real Estate Appellate Tribunal (TNREAT) on 06.12.2021.

2. The appellant has suffered an award in C.C.P. No.78 of 2020 for a sum of Rs.8,50,000/- which is to be refunded along with interest at the rate of 10.05% per annum, Rs.50,000/- towards compensation for mental agony and Rs.25,000/- towards litigation expenses, to the respondent. When an appeal was



preferred in A. No.114 of 2021 before the Appellate Tribunal [Tamil Nadu Real Estate Appellate Tribunal], pending disposal of the above appeal, the above waiver application in M.A. No.157 of 2021 was filed. In the waiver application, it has been stated that, due to Covid Pandemic situation, they could not mobilise the said sum. However, the Appellate Tribunal had dismissed the said application, based on the judgment of the Hon'ble Supreme court in M/s.Newtech Promoters and Developers Pvt.Ltd., -vs- State of Uttar Pradesh and others reported in 2021 SCC Online SC 1044. Aggrieved by the said order, the above civil miscellaneous second appeal has been preferred by the appellant-Company.

3. At the first instance, the above appeal cannot be entertained, as already the Appellate Tribunal has exercised its discretion by rejecting the waiver application. Further, statutorily, any person preferring an appeal has to deposit the amount suffered by an award. Mere deposit of amount cannot be the ground to call it as onerous condition and in view of the above reasoning, we are unable to entertain the appeal and the appeal is liable to be dismissed. The learned counsel for the appellant, requested to extend the time to deposit the above amount.

4. Accordingly, the civil miscellaneous second appeal is dismissed. No costs. At the request of the learned counsel for the appellant, time is extended by four weeks from today for making the above deposit.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

srn

To

The Tamil Nadu Real Estate Appellate Tribunal (TNREAT)
Chennai.

+1cc to M/s.Sarvabhauman Associates, Advocate, S.R.No.12111

C.M.S.A.No.8 of 2022

GJ(CO)
RLP(03/03/2022)