



C.R.P.(PD).No.2676 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2022

CORAM :

**THE HON'BLE MR. JUSTICE M.DURAI SWAMY
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

**C.R.P.(PD).No.2676 of 2022
and C.M.P.No.13908 of 2022**

M.N.Varadarajan

.. Petitioner

Vs.

1.Tapovan Residents Welfare Association
rep by its President, Mr.N.P.Iyer,
No.18, Tapovan Complex,
2A, Tapovan Complex, Karamadai Road,
Kuppanur Post, Coimbatore – 641 010.

2.Tapovan Senior Citizens Foundation,
No.18, Tapovan Complex,
2A, Tapovan Complex, Karamadai Road,
Kuppanur Post, Coimbatore – 641 010.

3.Tapovan Kovai Retirement Homes Pvt. Ltd.,
No.18, Tapovan Complex,
2A, Tapovan Complex, Karamadai Road,
Kuppanur Post, Coimbatore – 641 010.

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India r/w Section 58 of the Real Estate (Regulation & Development), Act, 2016 against the docket order dated 25.07.2022 made in A.No.18 of



C.R.P.(PD).No.2676 of 2022

2022 on the file of the Tamil Nadu Real Estate Appellate Tribunal (Tamil Nadu, Puducherry and Andaman & Nicobar Islands), Chennai.

For Petitioner : Mr.B.Sathish Sundar

For Respondents : Mr.Karthik Sundaram

ORDER

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

Challenging the docket order dated 25.07.2022 in A.No.18 of 2022 on the file of the Tamil Nadu Real Estate Appellate Tribunal (Tamil Nadu, Puducherry and Andaman & Nicobar Islands), Chennai, the petitioner has filed the above Civil Revision Petition.

2.By the docket order dated 25.07.2022, the Tribunal directed the petitioner/appellant to deposit a sum of Rs.42,37,756/- as per Section 43(5) of the Real Estate (Regulation and Development) Act, 2016, in addition to the earlier deposit made by him. The said quantum was arrived at by the Tribunal based on the affidavit filed by the petitioner/appellant before the Tribunal admitting that the sum of Rs.42,37,756/- was collected from the allottees towards rental charges for the dining hall and the meditation hall from the year 2013. The pre-deposit ordered by the Tribunal is mandatory and as per the provision of



C.R.P.(PD).No.2676 of 2022

Section 43(5) of the Act, the appeal cannot be entertained without making the pre-deposit.

3.Since the impugned order has been passed by the Tribunal based on the affidavit filed by the appellant, we do not find any error in the order passed by the Tribunal. In such view of the matter, we are not inclined to entertain the Civil Revision Petition filed under Article 227 of the Constitution.

4.So far as the maintainability of the Civil Revision Petition is concerned, since Section 58 of the Act is very clear that only an appeal shall lie as against any decision or order passed by the Appellate Tribunal, the revision is also not maintainable. In such view of the matter, the Civil Revision Petition is dismissed. However, it is open to the petitioner/appellant to raise all his contentions before the Tribunal and we also make it clear that the pre-deposit to be made by the petitioner is without prejudice to his contentions in the appeal. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.



C.R.P.(PD).No.2676 of 2022

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Index : Yes/No
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[M.D., J.] [S.M., J.]
24.08.2022

To

The Tamil Nadu Real Estate Appellate Tribunal
(Tamil Nadu, Puducherry and Andaman & Nicobar Islands),
Chennai.



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C.R.P.(PD).No.2676 of 2022

**M.DURAI SWAMY, J.
and
SUNDER MOHAN, J.**

va

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