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W.P.No.30274 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

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THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.30274 of 2024

Army Welfare Housing Organisation (AWHO),
Rep. by its Managing Director,
South Hutments, Kashmir House,
Rajaji Marg, New Delhi – 110 001.

...Petitioner

Vs.

1. Tamilnadu Real Estate Regulatory Authority,
No.1A, 1st Floor, Gandhi Irwin Bridge Road,
Egmore, Chennai – 600 008.

2. Sep M Servaran

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to number the set aside Application against the Ex parte order dated 05.01.2024 filed by the petitioner.

For Petitioner : Mr.B.Deepak Narayanan

For Respondent : Ms.R.Varalakshmi, for R1

ORDER



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This Writ petition has been filed seeking direction to the 1st respondent to number the set aside Application against the Ex parte order dated 05.01.2024 filed by the petitioner.

2. The case of the petitioner is that they constructed a dwelling unit in the name of Dinesh Vihar at Thazhambur, OMR, Chennai, which comprises of 852 dwelling units and the 2nd respondent purchased one of the dwelling unit from the petitioner and after taking physical possession of the unit on 09.10.2021 without any demur or protest, the 2nd respondent, after a lapse of about 874 days approached the 1st respondent and filed a complaint in RCP.No.162 of 2023, claiming damages and interest towards delay in handing over the possession. Further, though notice was ordered, however, it was not delivered to the petitioner and thereby, the petitioner could not resist the complaint filed by the petitioner and the 1st respondent, while setting the petitioner as exparte, passed an order dated 05.01.2024 holding that the petitioner is entitled for interest for the delay period. After coming to know the said order, the petitioner approached the 1st respondent and filed an application seeking to set aside the above said exparte order. However, the 1st respondent, returned the said application, without assigning any reason



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solely on the ground that, the final order has already been passed by the 1st respondent and therefore, it does not have the power to set aside the exparte order. Aggrieved by the same, the petitioner once again made an application dated 02.04.2024 under Order IX Rule 13 of CPC to set aside the exparte order dated 05.01.2024, which evoked no response. Hence, this Writ petition.

3. Though very many grounds have been raised, the learned counsel for the petitioner submitted that, it would suffice if this Court issues direction to the 1st respondent to number the set aside application dated 02.04.2024 filed by the petitioner against the exparte order dated 05.01.2024 and pass appropriate orders as expeditiously as possible.

4. Learned counsel appearing on behalf of the 1st respondent submitted that, appropriate orders will be passed on the petitioner's application dated 02.04.2024 within the time stipulated by this Court.

5. In view of the above, this Court without going into the merits of the



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case directs the 1st respondent to consider the petitioner's application dated 02.04.2024 on merits and in accordance with law and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order, after affording an opportunity of hearing to the petitioner, the 2nd respondent and other aggrieved persons, if any.

6. With the above directions, this Writ petition stands disposed of. No costs.

21.10.2024

skt

NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

To

Tamilnadu Real Estate Regulatory Authority,
No.1A, 1st Floor, Gandhi Irwin Bridge Road,
Egmore, Chennai – 600 008.

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M.DHANDAPANI, J.

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