



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31113 of 2024
and WMP.Nos.33759 & 33761 of 2024

1. Ganesh Bhaskaran
2. Abishek Kumar Singh
3. Ravi Kant Gupta
4. K.Srinivasulu Reddy
5. S.A.Abbas
6. Anushuman Singh Bishen
7. Zachariah Thomas
8. D.Dhakshinamoorthy
9. P.S.Parthasarathy

... Petitioners

Vs.

1. The Tamil Nadu Real Estate Regulatory Authority
TNRERA, No.1A, First Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai.

2. L.K.Sudhish

3. S.Poornajothi @ Sudhish Poornahothi

4. M/s.Lokaa Developer Pvt. Ltd.,
Rep. By the Resolution Professional,
Lokaa House, Door No.14,
Second Main Road, Kannappa Nagar Extension,
Thiruvanmiyur, Chennai-41.

5. P.Santhosh Sharma

6. Kalpana Sharma

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records comprised in impugned order in C.No.43 of 2023 on the file of the first respondent dated 15.12.2023 and quash the same as illegal arbitrary and non-est.

For Petitioner : Mr.R.Ramasubramaniam Raja

ORDER

The Writ Petition has been filed seeking to quash the impugned order in C.No.43 of 2023 on the file of the first respondent dated 15.12.2023.

2. It is the case of the petitioner that the petitioners are allottee of the Real estate project under the name and style of "M one" apartment. The respondents 2 & 3 are land owners. The 4th respondent company is the developer. The 5th and 6th respondents are the directors of the 3rd respondent company. The respondents 2 & 3 being the land owners and the 4th respondent being the Developer entered into an joint development agreement on 18.12.2014 to promote the subject real estate project and the respondents 2 & 3 had executed a general Power of Attorney in favour of the 4th respondent and the same was registered. The 4th respondent has not handed over the plots to the land owners in time and hence, they have approached the TNRERA. Without considering the entire facts, the RERA passed the present impugned order by directing the 4th respondents to complete construction and hand over the 78 units of flats to the respondents 2 &



3. The petitioners are the bonafide purchasers for consideration and the respondents 2 to 4 are joint developer partners, they have colluded and obtained an order behind the back of the petitioners. Challenging the said order, the present writ petition has been filed.

4. The learned counsel for the petitioners submitted that the respondents 2 & 3 and the 4th respondent have entered into a joint development agreement and they respondents 2 & 3 have executed a power of attorney in favour of the 4th respondent. Pursuant to which, the 4th respondent has sold the plots to the petitioners. Without considering the same, the RERA has passed an order to complete the construction and hand over the plots to the respondents 2 & 3, which is unsustainable. Therefore, this Court may quash the impugned order by allowing the writ petition.

5. Heard the learned counsel for the petitioner and perused the materials available on record. Since no adverse order is passed against the respondent, notice to them is dispensed with.

6. The facts of the case are not in dispute. Admittedly, there was a joint development agreement between the respondents 2 & 3, who are the owners of



the land and the 4th respondent, who is the developer. However, the 4th respondent has not completed the project in time as per the agreement.

Therefore, the respondents 2 & 3 have approached the RERA and after conducting due enquiry, the RERA passed the impugned order. The petitioners have not parties in the said proceedings before the RERA authority and there is no connection between the respondents 2 & 3 and the petitioner. The petitioners have only connected with the 4th respondent. If the petitioners have any grievance, they have to approach the competent civil Court and filing the present writ petition is unsustainable one.

7. With the above observation, the writ petition is dismissed. No costs. However, liberty is granted to the petitioners to work out their remedy in the manner known to law. Consequently, connected miscellaneous petitions are closed.

24.10.2024

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M.DHANDAPANI,J

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To

The Tamil Nadu Real Estate Regulatory Authority
TNRERA, No.1A, First Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai.

W.P.No.31113 of 2024

24.10.2024