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CMSA.Nos. 84, 85 & 86 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

C.M.S.A.Nos. 84, 85 & 86 of 2022

and

C.M.P.Nos. 17678, 17679 of 2023, 20307 & 20314 of 2022

CMSA.No.84 of 2022

M/s.Homefidiers Housing Ltd.,
Rep. by its Managing Director,
K.S.Ramalingam,
Flat No.2C, Race View Towers,
71 Mount Road, Guindy,
Chennai - 600 032.

...Appellant

Vs.

Santhi Pitchaiya Nattar

...Respondent

Prayer in CMSA.No.84 of 2022: Civil Miscellaneous Second Appeal filed under Section 58 of the Real Estate (Regulation and Development) Act, 2016 r/w. Section 100 of Civil Procedure Code, against the order dated 23.09.2022 made in A.Nos.25 of 2022 passed by the Tamil Nadu Real Estate Appellate Tribunal, affirming the order dated 28.02.2022 in CCP.No.92 of 2020.



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CMSA.Nos. 84, 85 & 86 of 2



For Appellant : Mr.K.Harishankar for
Mr.P.Manoranjan

For Respondent : Mr.T.V.G.Kartheeban

CMSA.No.85 of 2022

M/s.Homefidiers Housing Ltd.,
Rep. by its Managing Director,
K.S.Ramalingam,
Flat No.2C, Race View Towers,
71 Mount Road, Guindy,
Chennai - 600 032.

...Appellant

Vs.

Santhi Pitchaiya Nattar

...Respondent

Prayer in CMSA.No.85 of 2022: Civil Miscellaneous Second Appeal filed under Section 58 of the Real Estate (Regulation and Development) Act, 2016 r/w. Section 100 of Civil Procedure Code, against the order dated 23.09.2022 made in A.No.26 of 2022 passed by the Tamil Nadu Real Estate Appellate Tribunal, affirming the order dated 28.02.2022 in CCP.No.93 of 2020.

For Appellant : Mr.K.Harishankar for
Mr.P.Manoranjan

For Respondent : Mr.T.V.G.Kartheeban



CMSA.No.86 of 2022

1. M/s.Homefidiers Housing Ltd.,
Rep. by its Managing Director,
K.S.Ramalingam,
Flat No.2C, Race View Towers,
71 Mount Road, Guindy,
Chennai - 600 032.

2.M/s.Lamicale Club & Resort Pvt. Ltd.,
Rep. by its Director, Ms.Kalaichelvi,
73/1, Thiruvalluvar Salai, Ramapuram,
Chennai - 600 089

...Appellants

Vs.

Jeganathan Tennis Missier

...Respondent

Prayer in CMSA.No.86 of 2022: Civil Miscellaneous Second Appeal filed under Section 58 of the Real Estate (Regulation and Development) Act, 2016 r/w. Section 100 of Civil Procedure Code, against the order dated 30.09.2022 made in A.No.28 of 2022 passed by the Tamil Nadu Real Estate Appellate Tribunal, affirming the order dated 21.04.2022 in CCP.No.94 of 2020.

For Appellants : Mr.K.Harishankar for
Mr.P.Manoranjan

For Respondent : Mr.V.Raghavachari
for M/s.P.B.Ramanujam Associates



COMMON JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)
The Tamil Nadu Real Estate Regulatory Authority by its orders dated

28.02.2022, 23.09.2022 & 30.09.2022 held that the appellant is liable to pay damages to the home buyers. These orders were subject matter of challenge before the Appellate Tribunal in the Appeal Nos. 25, 26 & 28 of 2022. The Appellate Tribunal directed the appellants to deposit the entire compensation as ordered by the Authority. In view of the non-compliance with the direction, the Tribunal dismissed the appeals.

2.The question of pre-deposit was considered by the Hon'ble Supreme Court in *New Tech Promoters and Developers Vs. State of UP* wherein, it was held that if the appellant is a Promoter and the challenge is to the determination of compensation, then the Tribunal will be free to determine what is the compensation to be deposited under the proviso to Sub-section 5 of Section 43 of the RERA Act. In view of the above, the appellants cannot be allowed to prosecute the appeal without pre-deposit. The Tribunal has directed deposit of 100% of the compensation by an interim order. It is stated that the appellant has deposited 50% of the amount awarded by the Real Estate Regulatory Authority in CMSA.No.86 of 2022 and a compliance memo was also filed into this Court.



3. In view of the same, we direct the appellant in the other appeals viz., CMSA.Nos. 84 & 85 of 2022 also to deposit 50% of the compensation as determined by the Original Authority with appropriate interest as applicable till date of deposit. On such deposit, the Tribunal will hear the appellant and dispose of the appeal on merits. These Civil Miscellaneous Second Appeals are **disposed of** with the above direction. No costs. Consequently, connected miscellaneous petitions are closed. The appellant is granted six weeks time to deposit 50% of the compensation from the date of receipt of a copy of this order. We request the Tribunal to dispose of the appeal at the earliest convenience.

(R.S.M., J.) (R.S.V., J.)
18.07.2024

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Internet: Yes

Index: No

Speaking

Neutral Citation : No

R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.



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To:-

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- 1.The Tamil Nadu Real Estate Appellate Tribunal,
Chennai.
- 2.The Tamil Nadu Real Estate Regulatory Authority,
Chennai.

C.M.S.A.Nos. 84, 85 & 86 of 2022
and
C.M.P.Nos. 17678, 17679 of 2023, 20307 & 20314 of 2022

18.07.2024