



IN 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

CMSA NOS.1, 3, 4, 5, 6, 9, 10, 11, 12 & 14 OF 2023

AND

CMP NOS.83, 491, 525, 778, 792, 807, 826, 880, 1108 & 1454 OF 2023

CMSA NO.1 OF 2023

M/s.Sri Narayana Foundations (Real Agencies)

Represented by Mr.N.Sivarajan

No.241, Cuddalore Main Road (Upstairs)

Neyveli – 2.

... Appellant / Appellant /
Respondent

Vs.

S.Ramar

... Respondent / Respondent /
Complainant

PRAYER: Civil Miscellaneous Second Appeal filed under Section 58 of RERA read with Section 100 of Civil Procedure Code, praying to allow the appeal by reversing the finding made in Appeal No.48 of 2022 dated 26.10.2022 by the Tamil Nadu Real Estate Appellate Tribunal, Chennai, which is in the nature of confirming the order of the Tamil Nadu Real Estate Regulatory Authority, Chennai, made in Complaint No.241 of 2021 dated 27.04.2022.



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For Appellant : Mr.S.Senthilnathan
For Respondent : Mr.V.Rajesh Babu

COMMON JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The only question that arises for consideration in these appeals is as to whether the Tamil Nadu Real Estate Appellate Tribunal (TNREAT) was right in concluding that the project in question is an 'ongoing project' within the meaning of Rule 2(h) of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017.

2.Rule 2(h) of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017, which defines an 'ongoing project' reads as follows:

“2.Definitions:-

...
(h) ***“Ongoing project”*** means, a project where development is going on and for which completion certificate has not been issued but excludes such projects which fulfill any



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of the following criteria on the date of coming into force of sub-section (1) of section 3 of the Act:-

(i) in layout projects i.e., where land is developed into plots, the roads and open spaces gifted to the local body concerned;

(ii) the projects in Chennai Metropolitan Area for which application for completion certificate has been filed with Chennai Metropolitan Development Authority subject to furnishing certificate from the architect/licensed surveyor/ structural engineer associated with the project to the effect that all the buildings in the projects have been structurally completed i.e. all the columns, beams and slabs have been erected supported with photographs. Chennai Metropolitan Development Authority will issue, completion certificate for those projects in compliance with Completion Certificate norms prescribed. In Completion Certificate filed cases, if the Completion Certificate is rejected by Chennai Metropolitan Development Authority for violation of norms, such projects will be intimated to the Real Estate Regulatory Authority and will be bound for registration with Real Estate Regulatory Authority. The details of all projects where Completion Certificate application has been filed with Chennai Metropolitan Development Authority prior to notification of these rules will be disclosed to the public by publishing the list of all such projects on the website of Chennai Metropolitan Development



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Authority and Real Estate Regulatory Authority immediately after notification of these rules.

(iii) in the case of projects under execution outside Chennai Metropolitan Area, as no provision and procedure has yet been prescribed for issue of completion certificate, if the construction is structurally completed meaning that all the columns, beams and slabs have been erected and certified by the architect or structural engineer/licensed surveyor associated with the project supported with photographs. Such projects shall be intimated to the concerned Local Planning Authority or Regional Deputy Director of the Town and Country Planning Department within 15 days from the date of notification of these rules with a copy marked to the office of the Director of Town and Country Planning. The Director of Town and Country Planning will make public the list of all such projects in his official website, on the 16th day of notification of the rules besides publication of the same in the website of Real Estate Regulatory Authority.

(Emphasis supplied)”

3. Admittedly, the appellant has not executed any Gift Deed in respect of the land that is reserved for 'public purpose' in the project. Though Mr.S.Senthilnathan, learned counsel appearing for the appellant would attempt to contend that the Tamil Nadu Panchayat Buildings Rules,



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1997, which provides for approval of lay out plans by the Panchayats does not provide for execution of Gift Deeds.

4. We are afraid that we cannot go by the provisions of the Tamil Nadu Panchayat Building Rules, 1997. The 'Tamil Nadu Real Estate (Regulation and Development) Rules, 2017' [henceforth 'Rules' for brevity] have been framed pursuant to the power conferred on the State Government by Section 84 of the Real Estate (Regulation and Development) Act, 2016.

5. Section 84 of the Tamil Nadu Real Estate (Regulation and Development) Act, 2016 empowers the State Government to frame rules with reference to matters enumerated thereunder. Once rules are framed under Central enactment and those rules were very specific, we do not think that we can take any aid of the external rules to interpret these Rules. The Tribunal had applied the Rules and held that the project is an 'ongoing project'.



6.We, therefore, see no question of law arising in these

appeals and the appeals are therefore, dismissed. There shall be no order as

to costs. Consequently, connected Civil Miscellaneous Petitions are closed.

R.S.M., J.]

[R.S.V., J.]

18.07.2024

Index : No
Internet : Yes
Neutral Citation : No
Speaking Order
TK

To

1.The Tamil Nadu Real Estate Appellate Tribunal
Chennai.

2.The Tamil Nadu Real Estate Regulatory Authority
Chennai.



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R.SUBRAMANIAN, J.

AND

R.SAKTHIVEL, J.

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