



C.M.S.A.No.21 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 30.04.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

C.M.S.A.No.21 of 2025

and

C.M.P.No.11050 of 2025

M/s.SSM Builders & Promoters,
A Registered Partnership Firm,
Represented by its Managing Partner,
Mr.K.Santhanam,
Having Office at
SSM Nagar, Moppedu (Puthur) Road,
Alapakkam,
New Perungalathur,
Chengalpattu District - 600 063.

... Appellant

-Vs-

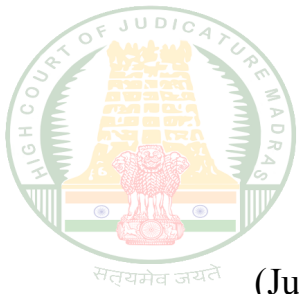
N.Prema

... Respondent

PRAYER : Appeal under Section 58(1) of the Real Estate (Regulation & Development) Act, 2016 r/w.Section 100 of Civil Procedure Code, against the order dated 21.11.2022 passed by the learned Tamil Nadu Real Estate Appellate Tribunal, Chennai in un-numbered Appeal (SR)No.625 of 2022, which was filed against the order passed by the learned Adjudicating Officer, TNRERA on 27.07.2022 in C.C.P.No.116 of 2021.

For Appellant : Mr.Ganesh and Ganesh

J U D G M E N T



C.M.S.A.No.21 of 2025

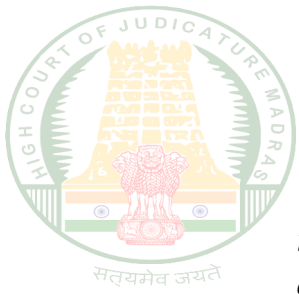
(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

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This appeal has been directed against the order passed by the Tamil Nadu Real Estate Appellate Tribunal, Chennai in un-numbered Appeal (SR)No.625 of 2022 against C.C.P.No.116 of 2021 dated 27.07.2022.

2. As against the order passed by the Tamil Nadu Real Estate Appellate Tribunal in C.C.P.No.116 of 2021 dated 27.07.2022, an appeal has been filed before the Appellate Tribunal under Section 43(5) of the Real Estate (Regulation and Development) Act, 2016. However, without making pre-deposit which become mandatory one, since the said appeal has been filed which was dismissed by the Appellate Tribunal through the order impugned to the following effect:

"The Registry has raised a query as to the maintainability of the appellant for the reason that the appellant failed to make pre deposit as contemplated under Section 43(5) of the Act. As per "Newtech Promoters and Developers Pvt. Ltd." judgment, the Hon'ble Supreme Court has categorically stated that an appeal filed as against the order passed by the RERA requires pre deposit. In the case on hand, the appellant has filed the appeal without making the pre deposit. Section 43(5) specifically states that for entertaining an appeal by this Tribunal, it requires pre deposit as contemplated therein. As per the judgement of the Hon'ble Supreme Court this Tribunal has no jurisdiction to waive or exempt the appellant from making pre deposit. In such a view of the matter the above appeal filed by the appellant without making pre deposit is not maintainable. Accordingly the same



C.M.S.A.No.21 of 2025

is rejected. Connected Miscellaneous applications pending if any, are hereby closed."

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3. Having gone through the order, we do not find any reason to interfere with the same as the pre-deposit is mandatory condition as stipulated in the judgment of the Hon'ble Supreme Court in Newtech Promoters and Developers Pvt. Ltd., as quoted by the Tribunal in the order impugned itself and hence, we are inclined to dismiss this appeal and accordingly, this Civil Miscellaneous Second Appeal is dismissed. The dismissal of the appeal would not preclude the appellant to make an attempt before the Appellate Tribunal by filing a review application along with DD of entire pre-deposit. In such case, it is open to the Tribunal to consider the matter and decide the same on merits. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (A.D.M.C., J.)
30.04.2025

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

The Tamil Nadu Real Estate Appellate Tribunal, Chennai.



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C.M.S.A.No.21 of 2025

**R.SURESH KUMAR, J.
and
A.D.MARIA CLETE, J.**

vji

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