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Olive Builders Nd Developers vs Kerala Real Estate Regulatory Authority (Krera)

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Court : Kerala Orders

Decided On : Apr-04-2022

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/11190/2021

Appellant : Olive Builders Nd Developers

Respondent : Kerala Real Estate Regulatory Authority (Krera)

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN MONDAY, THE 4TH DAY OF APRIL 2022 / 14TH CHAITHRA, 1944 WP(C) NO. 11190 OF 2021 PETITIONER/S: OLIVE BUILDERS ND DEVELOPERS OLIVE HOUSE, 50/932A, DEVAKULANGARA JN, CHITTUPADUKA, EDAPALLY NORTH VILLAGE, KOCHI, REPRESENTED BY ITS AUTHORISED SIGNATORY MR. P.V.MATHAI BY ADVS. SANTHOSH MATHEW SRI.VIJAY V. PAUL SHRI.GOKUL ASOK SMT.NANDA SURENDRAN RESPONDENT/S:

1 KERALA REAL ESTATE REGULATORY AUTHORITY (KRERA) SWARAJ BHAVAN, 5TH FLOOR, NANTHANCODE, KOWDIAR P.O., THIRUVANANTHAPURAM-695 003, REPRESENTED BY ITS SECRETARY (TECHNICAL AND ADMINISTRATION) 2 MATHEW ABRAHAM, PENT HOUSE, OLIVE CELESTINA, T.B.ROAD, KODIMATHA P.O., KOTTAYAM-686 039, REPRESENTED BY HIS POWER OF ATTORNEY HOLDER, MR.ABRAHAM MATHEW [EXPIRED] 3 SECRETARY, KOTTAYAM MUNICIPALITY, JOYEES ARCADE, YMCA RD, KOTTAYAM, KERALA-686 001 4 STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001 5 ADDL. R5 ABRAHAM MATHEW (LEGAL HEIR) S/O.LATE MATHEW ABRAHAM, KALISSERRIL HOUSE, OLIVE CELESTINA, T.B.ROAD, KODIMATHA P.O., KOTTAYAM - 686 039. -2-

6 ADDL. R6 OMANA MATHEW (LEGAL HEIR) W/O.LATE MATHEW ABRAHAM, KALISSERRIL HOUSE, OLIVE CELESTINA, T.B.ROAD, KODIMATHA P.O., KOTTAYAM - 686 039. [LEGAL HEIRS OF EXPIRED R2 ARE IMPLEADED AS ADDITIONAL R5 AND R6 AS PER ORDER DATED 29.07.2021 IN I.A.1/2021 IN WP(C)11190/2021] BY ADVS. C.M.NAZAR SHRI.SIBY CHENAPPADY, SC, KOTTAYAM MUNICIPALITY RAMESH CHERIAN JOHN SHAJI P.MATHEW THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04.04.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -3-

P.V.KUNHIKRISHNAN, J.

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W.P.(C) No.11190 of 2021

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Dated this the 4th day of April, 2022

JUDGMENT

The learned counsel for the petitioner submitted that the petitioner may be permitted to withdraw this writ petition with liberty to pursue the matter before the Real Estate Regulatory Authority (RERA). Permission granted and the writ petition is dismissed as withdrawn with liberty to raise all the contentions raised in this writ petition before the RERA. sd/- P.V.KUNHIKRISHNAN JUDGE das -4- APPENDIX OF WP(C) 11190/2021 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE AGREEMENT FOR SALE DATED 12.11.2010 EXHIBIT P2 TRUE COPY OF THE AGREEMENT FOR SALE DATED 19.11.2010 EXHIBIT P3 A COPY OF THE BUILDING PERMIT DATED 25.06.2013 ISSUED BY THE 3RD RESPONDENT MUNICIPALITY EXHIBIT P4 A COPY OF THE PROCEEDINGS DATED

20.08.2016 ISSUED BY THE 3RD RESPONDENT MUNICIPALITY FOR EXTENDING THE TIME GRANTER FOR THE CONSTRUCTION EXHIBIT P5 A COPY OF THE PROCEEDINGS DATED 13.03.2018 ISSUED BY THE 3RD RESPONDENT MUNICIPALITY FOR EXTENDING THE TIME GRANTED FOR THE CONSTRUCTION

EXHIBIT P6 APPLICATION FOR OCCUPANCY CERTIFICATE DATED 21.11.2018 WHICH IS MARKED AS PW3/BA/107/11-12 IN THE FILES OF 3RD RESPONDENT MUNICIPALITY EXHIBIT P7 PUBLIC NOTICE ISSUED BY K-RERA DATED 26.12.2019 EXHIBIT P8 PUBLIC NOTICE ISSUED BY K-RERA DATED 27.12.2019 EXHIBIT P9 PUBLIC NOTICE ISSUED BY K-RERA DATED 22.02.2020 EXHIBIT P10 PUBLIC NOTICE ISSUED BY K-RERA DATED 17.09.2020 EXHIBIT P11 OCCUPANCY CERTIFICATE DATED 05.03.201, ISSUED TO THE PETITIONER EXHIBIT P12 THE RERA REGISTRATION CERTIFICATE ISSUED FOR 'OLIVA CELESTINA' DATED 26.03.2021 EXHIBIT P13 CCP NO.64 OD 2021 FILED BY THE 2ND RESPONDENT AGAINST THE PETITIONER BEFORE THE 1ST RESPONDENT AUTHORITY -5- EXHIBIT P14 CCP NO.102 OF 2021 FILED BY THE 2ND RESPONDENT AGAINST THE PETITIONER BEFORE THE 1ST RESPONDENT AUTHORITY EXHIBIT P15 THE COPY OF THE POSSESSION LETTER DATED 26.04.2019 ISSUED BY THE PETITIONER AND ADDRESSED TO THE 2ND RESPONDENT EXHIBIT P16

COPIES OF PHOTOGRAPHS SHOWING THE PRESENT STATUS OF THE PROJECT EXHIBIT P17 THE JUDGMENT IN WPC NO.7291 OF 2018 RESPONDENT EXHIBITS Exhibit R5 A TRUE COPY OF ONE DISCHARGE SUMMARY DT. KOTTAYAM WHERE HE WAS ADMITTED FOR SURGERY WHEREIN ALL THE UNDERLYING CONDITIONS OF 2ND RESPONDENT.

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