

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.01.2019

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.25350 of 2018
and WMP Nos.29502 & 36118 of 2018

Mr.K.Shankar (Proprietor)
M/s. Corner Stone Builders
No.24, Bawa Street,
Alwarpet, Chennai 600 018.

.. Petitioner

Vs.

1. The Real Estate Regulatory Authority
Union Territory of Puducherry,
Puducherry.
2. The Sub Registrar,
Oulgaret,
Pondicherry.
3. M/s. State Bank of India,
Small and Medium Enterprises Branch,
No.39, 6th Floor,
Prashant Real Gold Tower,
North Usman Road, T.Nagar,
Chennai 600 017.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd respondent to permit the petitioner to register the Sale deeds of the flat situated at R.S.No.149/2, Cadastre No.526, Karvadikuppam, Oulgaret, Municipality without insisting for RERA Compliance.

For Petitioner : Mr.C.Karthick, Senior Counsel
for M/s.Ananda Gomathy

For Respondents : Mr.D.Ravichander
Additional Govt. Pleader (Pondy)
for R1 & R2

Ms.S.R.Sumathy for R3

O R D E R

The prayer sought for in this Writ petition is for the issuance of a Writ of Mandamus, directing the 2nd respondent to permit the petitioner to register the Sale deeds of the flat situated at R.S.No.149/2, Cadastre No.526, Karvadikuppam, Oulgaret, Municipality, without insisting for RERA Compliance.

2. Heard Mr.C.Karthick, Senior Counsel appearing for M/s.Anand Gomathy for the petitioner, Mr.D.Ravichander, learned Additional Government Pleader (Pondy) appearing on behalf of the respondents 1 and 2 and Ms.S.R.Sumathy, learned counsel appearing for the third respondent.

3. The petitioner, who is a builder, has constructed about 40 apartments, out of which, 26 have been sold and 7 of them have been registered. After the registration of 7 apartments, the Central Government passed the Real Estate (Regulation and Development) Act, 2016, (in short "RERA" Act) which made it mandatory to register the projects with RERA and only on obtaining the registration number, the sale deeds can be executed and buyers can be accommodated.

4. It is the complaint of the petitioner that Real Estate Regulatory Authority is not appointed by the respondent. As provided in the third proviso to Section 20 of RERA Act, the Secretary to Government (Housing), Puducherry, was acting as the Interim Regulatory Authority for the purpose of this Act under G.O.Ms.No.2/2017-Hg dated 09.02.2017, and the term was in force, up to 30.04.2018. As the Interim Regulatory Authority is also not available, now the complaint of the petitioner is that they are unable to proceed with the Registration and as a consequence, Banks take legal action not only against the petitioner but also the buyers who are unable to produce the Sale Deeds, due to the non availability of RERA Number.

5. It is now stated by the learned Additional Government Pleader, Pondicherry, that already the Government has recommended the names of the persons for appointing as Chairperson and Members of the Real Estate Regulatory Authority and such recommendation is sent to this Court for completion of certain formalities, as mandated under the RERA Act.

6. In such circumstances, as per the third proviso to Section 20 of the RERA Act, 2016, till such time the Regulatory Authority is appointed, there can be an interim Regulatory Authority appointed, who should not be less than the rank of a Secretary to Government. In view of the said proviso, the Housing Secretary, Puducherry, or any other person competent, as may be designated by the Government, shall be appointed as the

Regulatory Authority for the purpose of this Act, as done earlier. The said exercise shall be completed within a period of two weeks from the date of receipt of copy of this order.

7. With the above directions, this writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jv

To

1. The Real Estate Regulatory Authority
Union Territory of Puducherry,
Puducherry.
2. The Sub Registrar,
Oulgaret,
Pondicherry.
3. M/s. State Bank of India,
Small and Medium Enterprises Branch,
No.39, 6th Floor,
Prashant Real Gold Tower,
North Usman Road, T.Nagar,
Chennai 600 017.

+1cc to M/s.Ananda Gomathy, Advocate, S.R.No.5708
+1cc to the Government Pleader(Pondy), S.R.No.5245

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rrs 25/01/2019

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