



W.P.No.6618 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2023

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

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Jagannathan

. . . Petitioner

VS.

1. The District Collector,
Collectorate,
GST Road,
Chengalpattu-603001.

2. The Tahsildar,
Thiruporur Taluk,
Thandalam,
Chengalpattu -603001.

3. M/s.Marg Private Limited,
“Savithanjali Project”
Kalavakkam Village,
Thiruporur Panchayat,
Chengalpattu District.

. . . Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India,
to issue a Writ of Mandamus by directing the 1st Respondent to execute the



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recovery warrant issued unde section 40(1) of the RERA Act r/w 26 of TNRERA Rules by the TNRERA, Chennai by the TNRERA, Chennai vide E.p.No.06/2022 in C.C.P.No.21 of 2020 dt.20.07.2022 for collecting the claim amount of Rs.44,36, 284/- along with 10.20% per annum on the petitioner's representation dt.28.12.2022.

For Petitioner : M/s.M.Mani Gopi

For Respondents : Mr. Veda Bagath Singh,

Special Government Pleader for R1 & R2

ORDER

This Writ Petition has been filed seeking a direction to the 1st respondent to execute the recovery warrant issued under Section 40(1) of the RERA Act r/w Rule 26 of TNRERA Rules by the TNRERA, Chennai by the TNRERA vide E.P.No.06/2022 in CC.P.N.21 of 2020 dt.20.07.2022 , in order to take steps to attach the properties and bring the same through public auction and to recover the due amount as per the TNRERA order and hand over the said amount to the petitioner on the basis of the representation made by the petitioner.



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2. Mr. Veda Bagath Singh, learned Special Government Pleader takes notice for R1 & R2.

3. Since, no adverse order is being passed against the 3rd respondent, notice to the 3rd respondent is dispense with.

4. The case of the petitioner is that he booked A Flat No.1408 in Block 'A' with the 3rd respondent herein. Though, the petitioner had paid the advance amount of Rs.4,38,384/-, out of the agreed price amount of Rs.47,75,942/- however, the said flat was not handed over to the petitioner within the time period as stipulated in the sale agreement. Therefore, the petitioner had approached the Tamilnadu Real Estate Regulatory Authority (in short 'TNRERA') and filed a petition therein under Rule 26 of TNRERA Rules, wherein, after conducting a detailed enquiry, an order came to be passed on 22.06.2021 directing the 3rd respondent to repay the due amounts to the petitioner along with interest, within a period of 30 days from the date of issuance of the said order, however, till date, the said order has not been



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implemented by the 3rd respondent. Hence, the petitioner made a representation dated 29.12.2022 seeking to issue recovery warrant in respect of the 3rd respondent in order to attach the subject properties and bring the same to public auction and to recover the amounts due to the petitioner. However, till date, no action has been taken on the said representation. Hence, the present Writ Petition has been filed.

5. Though very many grounds have been raised, learned counsel for the petitioner submits that it would suffice if this Court directs 1st respondent to execute a recovery warrant under Section 40(1) of the RERA Act r/w Rule 26 of TNRERA Rules based on the representation made by the petitioner on 29.12.2022, within the time that may be stipulated by this Court.

6. On the above contention, this Court heard the learned Special Government Pleader appearing for respondents 1 & 2.



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7. In view of the limited relief sought for by the learned counsel for the petitioner, this Court without expressing any opinion on the merits of the case directs the 1st respondent herein to execute a recovery warrant under Section 40(1) of the RERA Act r/w Rule 26 of TNRERA Rules based on the representation dated 29.12.2022 made by the petitioner and pass appropriate orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as the 3rd respondent, within a period of four weeks from the date of receipt of a copy of this order, if there is no other legal impediment.

8. This writ petition is disposed of with the aforesaid direction. There shall be no order as to costs.

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Index : Yes / No

Internet : Yes / No

M.DHANDAPANI, J.

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