



W.P.No.7154 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2023

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.7154 of 2023

M/s.Sahara Prime City Limited,
Rep.by its Project Manager, K.B.Nagaraj,
Sahara City Homes, NH-209,
Sathy Road, Saravanampatty,
Coimbatore-641035.

. . . Petitioner

vs.

1. The Chairperson,
Tamilnadu Real Estate Regulatory Authority, (TNRERA)
Thiru.K.Gnanadesikan, I.A.S(Retired),
No.1-A, First Floor, Gandhi Irwin Bridge Road,
Egmore, Chennai-600008.

2. Sahara Housing Investors Association,
A Society registered under the Tamil Nadu
Societies Registration Act, 1975
Represented by its president
Mr.S.S.Shanmugam, 27, Thudiyalur Road,
Saravanampatty,
Chennai-641035.

. . . Respondents



W.P.No.7154 of 2023

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to pass order or direction in the nature of Writ of Mandamus by directing the 1st Respondent not to hand over out project namely “Sahara City Homes at NH-209, Sathy Road, Saravanampatty, Coimbatore-641035” to the 2nd Respondent.

For Petitioner	: Mr. R.Venkatramani, Senior Counsel for Jury Brain Law Offices
For Respondents	: Mr. T.Mohan, Senior Counsel : M/s.Sundar Narayanan for R2

ORDER

This Writ Petition has been filed seeking to restrain the 1st respondent from handing over the project namely “Sahara City Homes at NH-209, Sathy Road, Saravanampatty, Coimbatore-641035” to the 2nd respondent herein.

2. It is the case of the petitioner Company that they have constructed multi-storied houses and are engaged in selling the properties to the allottees



W.P.No.7154 of 2023

on payment of sale consideration as per the agreement entered into between the respective parties. However, due to the dispute between the petitioner Company and the 2nd respondent Company, SEBI passed an order against the Petitioner Companies stating that the deposits collected from the allottees as per law is illegal, against which, appeal was preferred before the Tribunal. However the same was dismissed with a direction to the companies to refund the amount with interest @ 15% per annum, against which, Civil Appeal was preferred before the Hon'ble Apex Court, wherein a conditional order was passed directing the Petitioner Company to deposit the amount within three months and failure to adhere the conditions resulted in freezing of Bank Accounts of the Companies. While being so, the 2nd respondent had approached the Consumer Redressal Commission and TNRERA with regard to the aforesaid, pursuant to which, the 1st respondent passed an order directing the companies to pay the compensation amount to the allottees and further direction was issued to hand over the project to the 2nd respondent. Hence, the present Writ Petition has been filed.



W.P.No.7154 of 2023

3. Though very many grounds have been raised, however, learned Senior Counsel appearing for the petitioner seeks liberty to file an appeal before the appellate authority as against the order of the 1st respondent.

4. On the above contentions, this Court heard learned Senior Counsel appearing for the respondents and perused the materials available on record.

5. Even a bare perusal of the materials available on record reveals that, in an earlier round of litigation, a conditional order has been passed by the Hon'ble Supreme Court with regard to deposit of amount which was not complied with by the petitioner company and as a result of non-compliance of the said order, the Bank Accounts of the Petitioner Company were directed to be frozen. In spite of the same, the petitioner company neither allotted the plots nor paid the deposit amounts to the allottees, which prompted the 2nd respondent to approach TNRERA seeking certain reliefs, wherein, the petitioner company was once again directed to repay the deposits to the allottees, however, the said order also was not complied with



W.P.No.7154 of 2023

by the petitioner company.

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6. As against the order of the 1st respondent, there is an appeal remedy available before the appellate authority. Without availing such remedy and the fact that the petitioner Company is a defaulter, filing a Writ Petition before this Court seeking the above relief is not sustainable. Hence, the prayer sought for in this Writ Petition cannot be granted. However, liberty is granted to the petitioner to work out the remedy in the manner known to law.

7. This Writ petition stands disposed of with the above liberty.
There shall be no order as to costs.

13.03.2023

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Index : Yes / No

Internet : Yes / No



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W.P.No.7154 of 2023

M.DHANDAPANI, J.

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To

The Chairperson,
Tamilnadu Real Estate Regulatory Authority, (TNRERA)
Thiru.K.Gnanadesikan, I.A.S(Retired),
No.1-A, First Floor, Gandhi Irwin Bridge Road,
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W.P.No.7154 of 2023

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