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W.P.No.19082 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.19082 of 2022
and
W.M.P.No.18392 of 2022

V.P.Raju

... Petitioner

vs.

1.The District Collector,
Office of the Collector,
GST Road, Chengalpet – 603 001.

2.The Revenue Divisional Officer,
VOC Nagar, Chengalpet – 603 001.

3.The Tahsildar,
Chengalpet Taluk Office,
VOC Nagar, Chengalpet – 603 001.

4.M/s.Hallmark Infrastructure Pvt. Ltd.,
Represented by its Director Mr.C.Kamal Kumar,
No.43, Old No.62/2, United Plaza,
Usman Road, T.Nagar, Chennai – 600 017. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India
praying to issue a writ of Mandamus, directing the respondents 1, 2 and 3
to initiate and complete the recovery proceedings to the extent of



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Rs.78,18,733/- along with further interest payable to the petitioner until realization, as per the warrant dated 30.11.2021 passed by the Adjudicating Officer of RERA, in E.P.No.06 of 2021 issued under Section 40(1) of the RERA Act, read with Rule 26 of TNRERA Rules, by following due process of law, within a time frame to be fixed by this Court.

For Petitioner : Ms.K.Subhashini Suresh
for M/s.Chennai Law Associates
For Respondents : Mr.P.Sathish
Additional Government Pleader [R1 to R3]
No appearance [R4]

ORDER

The petitioner has filed this Writ Petition seeking for a Writ of Mandamus, to direct the respondents 1 to 3 to initiate and complete the recovery proceedings to the extent of Rs.78,18,733/- along with further interest payable to the petitioner until realization, as per the warrant dated 30.11.2021 passed by the Adjudicating Officer of RERA, in E.P.No.06 of 2021 issued under Section 40(1) of the RERA Act, read with Rule 26 of TNRERA Rules, by following due process of law, within a time frame to be fixed by this Court.



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2. Though the name of the fourth respondent is printed in the cause list, however, they have not entered appearance either in person or through counsel.

3. The case of the petitioner is that, the fourth respondent allotted the flat bearing No.S-04 (204) in the 2nd Floor, Block-B, Wing No.03, admeasuring 1654 sq.ft. GOLDEN COUNTY at No.79, Gudalur Village, Maraimalai Nagar Satellite City, Chengalpet Taluk, Kanchipuram District and allotted another flat No.280 in their office with booking date as 21.02.2013. Until 17.03.2018, when the petitioner visited the site of GOLDEN COUNTY, it was found that, absolutely, there was no progress in the construction and it clearly appears that, the said project has been abandoned by the fourth respondent. Immediately, the petitioner filed a Compensation Claim Petition before the Adjudicating Officer, TNRERA, Egmore on 28.12.2018 in C.C.P.No.22 of 2019 and the Adjudicating Officer heard the case on 20.10.2020 and passed an order on 11.11.2020 granting refund of the claim amount along with interest and compensation. Since the directions were not complied with, the petitioner filed E.P.No.6 of 2021 before the Tamil Nadu Real Estate Regulatory



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Authority on 20.01.2021 and the case was heard on 03.11.2021 and the Adjudicating Officer passed an order on 30.11.2021 and the order was to issue recovery warrant under Section 40(1) of the RERA Act r/w Rule 26 of TNRERA Rules and send it to the District Collector, Chengalpattu Taluk, Kancheepuram District, to collect the same under the RERA Act. However, the District Collector has not completed the proceedings as ordered by the RERA Authority. Hence, the petitioner filed the above Writ Petition before this Court for appropriate directions.

4. The learned counsel for the petitioner submits that, on earlier occasion, this Court, by its order, dated 03.03.2023, recorded that the fourth respondent has agreed to provide alternative flats to the petitioner depending upon on the value and estimate of the flats. However, till date there is no progress. Hence, she urges this Court to issue a direction to the first respondent to complete the proceedings as ordered by the RERA Authority on 30.11.2021.

5. The learned Additional Government Pleader appearing for the respondents 1 to 3 placing reliance on the status report filed by the first



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respondent submitted that, the Adjudicating Officer, TNRERA, Chennai had issued recovery warrant in E.P.No.6 of 2021 in C.C.P.No.22 of 2019 under Section 40(1) of RERA Act r/w Rule 26 of TNRERA Rules for recovery of a sum of Rs.78,18,733/- by invoking the provision under the Revenue Recovery Act, 1864 (Act No.2 of 1864) from the fourth respondent. Pursuant to which, the first respondent issued order in proceedings in Na.Ka.No.534/2022/U3 dated 22.02.2022 directing the third respondent to recover the debtor amount by attachment of their landed properties admeasuring an extent of 26.91 acres in the lands in Survey No.155/11, etc. of Gudalur Village, Chengalpattu Taluk, Chengalpattu District. Subsequently, the third respondent initiated Recovery proceedings under the provisions of the Revenue Recovery Act, 1864 and served Demand Notice in Form 1 under Section of the Revenue Recovery Act, 1864 and on receipt of the same, the fourth respondent appeared before the third respondent on 18.05.2022 and submitted that they would allot alternate flat to the petitioner since he was not in position to settle the amount ordered by the Adjudicating Officer, TNRERA, Chennai, subsequently, when the petitioner the was enquired in person on 23.08.2022, the petitioner has also submitted that



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he was not agreeable to the proposal to Alternate Flat promised by the fourth respondent. Accordingly, he prays for dismissal of the Writ Petition.

6. In view of the status report filed by the first respondent, this Court, directs the first respondent to complete the Revenue Recovery proceedings as per the warrant dated 30.11.2021 passed by the Adjudicating Officer of RERA, in E.P.No.06 of 2021 issued under Section 40(1) of the RERA Act, r/w Rule 26 of TNRERA Rules, within a period of twelve (12) weeks from the date of receipt of a copy of this order, if there is no legal impediment.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order / Non-speaking order
Neutral Citation Case : Yes/No
sp



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WEB COPY To

- 1.The District Collector,
Thiruvallur District,
Thiruvallur.
- 2.The District Registrar,
Thiruvallur District,
No.184/12G, State Highway 50,
Pungathur SP Nagar,
Thiruvallur.
- 3.The Sub-Registrar,
Redhils Sub-Register Office,
Redhils,
Thiruvallur District.



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M.DHANDAPANI, J.

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