



WEB COPY



W.P.No.5072 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

**W.P.No.5072 of 2023
and WMP No.5091 of 2023**

D.Vinoth Kumar

Petitioner

Vs

1.The Collector
Chengalpattu District Collectorate,
Chengalpattu – 603 001.

2.The Tahsildar,
Thiruporur Taluk Office,
Thandalam
Chengalpattu – 603 105.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to proceed and perform their statutory duties by executing the attachment, auction or sale of the property described in the Recovery Warrant dated 16.08.2022 and to recover the amount under the Recovery Warrant as arrears of Land Revenue within a stipulated time fixed by this Court.

For Petitioner : Mr.Ralph V.Manohar

For Respondents : Mr.M.R.Gokul Krishnan
Additional Government Pleader



W.P.No.5072 of 2023

ORDER

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2.The possession of the apartment was to be handed over in December 2013 with a grace period of three months. However, there were defaults by the builder, who incidentally has not been arrayed as a respondent.

3.The petitioner filed a police complaint and also approached the Adjudicating Officer under the Tamil Nadu Real Estate (Regulation and Development) Act, 2016 in CCP.No.22 of 2020 seeking refund of the sale consideration with interest.

4.The complaint was ordered on 22.06.2021 directing refund of a sum of Rs.82,60,691/- with interest. Execution proceedings have also been initiated in E.P.No.7 of 2022 and a recovery warrant has been issued to the respondents in Dis.No.13107 dated 16.08.2022 under



W.P.No.5072 of 2023

Section 40(1) of the RERA Act.

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5.Despite representations on various dates, there has been no move to attach the property as directed by the RERA and recover the amount due to the petitioner.

6.Hence, this writ petition praying for a mandamus directing the respondents to perform their statutory duty of executing attachment, auction or sale of the scheduled property under recovery warrant dated 16.08.2022, recover the amount stipulated therein as arrears of land revenue and pay the same over to the petitioner.

7.They also state that the records of the concerned village have been verified and it is seen that in regard to some of the survey numbers, Marg Properties Private Limited are not the owners. It is always open to the respondents to seek clarification from the RERA in regard to any clarifications required with regard to the Survey numbers in the recovery warrant.

8.It is incumbent on the authorities to execute the recovery warrant since as in the alternate the order passed by the RERA would be rendered purposeless. The petitioner specifically states that Marg Properties is continuing to flout the order with the impunity and is selling undivided shares as there is no attachment of the property effected in the concerned



W.P.No.5072 of 2023

Sub Registrar's Office.

WEB COPY 9.Third party interest is thus created to the detriment of the petitioner. In such circumstances, mandamus is issued to the respondents to proceed and execute recovery warrant dated 16.08.2022 and to recover the amounts stipulated as arrears of land revenue. This exercise will be carried out as expeditiously as possible and at any rate within a period of four (4) months from date of receipt of this order.

10.This writ petition is disposed in terms of this order. No costs.

Connected miscellaneous petition is closed.

06.06.2024

vs

Index:Yes/No

Speaking order:Yes/No

Neutral Citation:Yes/No

To

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Chengalpattu – 603 001.

2.The Tahsildar,

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Thandalam, Chengalpattu – 603 105.



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DR.ANITA SUMANTH,J.

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