



WEB COPY

W.P.No.20738 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.20738 of 2024
and
W.M.P.No.22684 of 2024

Mr.Abishek Modi

VS

.. Petitioner

1.The District Collector,
Chengalpettu District,
having office at
Collectorate, GST Road,
Chengalpattu – 603 001.

2.The Tahsildar,
Thiruporur.

3.The Revenue Divisional Officer,
Chengalpattu District,
Chengalpattu – 603 001.

4.The Thsildar,
Chengalpattu District,
Chengalpattu – 603 001.

5.M/s.Influence Infrastructure
Rep. By its Partner Mr.Naresh Kumar Jain,
No.91, Poonamallee High Road,
Chennai – 600 084.

6.M/s.Influence Enterprises (India) Pvt Ltd.,
Rep. By its Managing Director Mr.Naresh Kumar Jain,
Vijay Complex, IV Floor, No.3
Blackers Road, Chennai – 600 002.

7.M/s.Vijay Shanthi Builders Limited,
Rep. By its Managing Director Mr.Chandan Kumar Jain,
Old Door No.8, New Door No.21,
First Avenue, Indira Nagar,
Adayar, Chennai – 600 020.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying



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to issue a writ of mandamus directing respondents 1 to 4 to take necessary steps and recover the amounts to the tune of Rs.3,54,01,722/- that is due and payable from respondent nos. 5 to 7 in favour of the petitioners account.

For Petitioner : Ms.Ranchasayee

For Respondents : Mr.U.Baranidharan
Additional Government Pleader

ORDER

Mr.U.Baranidharan, learned Additional Government Pleader, accepts notice for R1 to R4 and has detailed written instructions in Na.Ka.No.1229/2021.A4 signed on 24.07.2024. Hence taking note of the submission and to enable a final disposal at this juncture, no notice is thought necessary at this stage to R5 to R7/private respondents.

2. The petitioner claims to be an allottee in a project called "BAY INFLUENCE" which was developed by the private respondents. Despite payment of substantial amounts, there was defaults by the private respondents in completion of the project and hence, the petitioner had filed a complaint before the Tamil Nadu Real Estate Regulatory Authority (TNRERA) vide Form – M under Section 31 of the Real Estate (Regulation and Development) Act, 2016 and sought refund of the amounts with interest and compensation.

3. The TNRERA on 21.12.2019 passed an order directing the petitioner to file a complaint before the appropriate forum for refund and the directions were also stated to have been complied with by petitioner on 03.07.2019.

4. The adjudicating authority passed final orders in CCP No.168



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of 2019 on 29.10.2020 directing the respondents either jointly or severally to refund a sum of Rs.1,83,72,559/- at along with interest at State Bank of India, marginal lending rate + 2%, Rs.5,00,000/- as compensation towards mental agony and hardship and Rs.4,90,270/- towards cost of expenses incurred towards registration of the house.

5. The appeal filed by the promoter and the private respondents before the Tamil Nadu Real Estate Appellate Tribunal (TNREAT) in Appeal No.12 of 2021 was dismissed on 26.04.2021 for non-compliance of deposit amount as per Section 43 (5) of the Act. Execution Petitions have also been filed by the petitioner seeking execution of order dated 28.10.2020 and in Execution Petition No. 71 of 2021, an order of recovery has been passed on 29.04.2022.

6. Despite steps taken by the petitioner to follow the matter up, and impress upon the official respondents, the prejudice caused to them there has been no steps taken thus far and hence this writ petition seeking a mandamus directing official respondents to take necessary steps to recover the amounts due to the petitioner from R5 to R7.

7. Written instructions filed by the official respondents reveal that proceedings have commenced in terms of Sections 27, 29 and other applicable provisions of the Revenue Recovery Act, 1864. Form 1 has been filed on 18.01.2023 and Form 4 on 21.04.2024. Copies of Form 1 and Form 4 have been handed over to learned counsel for petitioner for onward transmission to the petitioner for his information. Action for issuance of Form 5 and 6 are stated to be in the pipeline.



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8. Mr.Baranidharan, would assure the Court and the petitioner that the needful will be done in this regard within a period of three months from today. This is recorded.

9. As the object of this writ petition has now been substantially achieved, by recording the aforesaid assurance of respondent counsel, nothing useful would be served in keeping the matter pending any further, and the writ petition is hence closed. No costs. Connected miscellaneous petition is closed.

24.07.2024

Index:Yes/No
Neutral Citation:Yes
ssm

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DR. ANITA SUMANTH,J.

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