



W.P.No.26186 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2024

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.26186 of 2024

S.Krishnaswamy

...Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Namakkal Kavignar Maaligai,
Fort St. George, Chennai-600 009.
2. The Collector,
Chennai District,
Rajaji Salai, 4th Floor,
62, Beach Rd, George Town,
Chennai, Tamil Nadu-1.
3. The Tahsildar,
O/o. The Tahsildar,
Mylapore Taluk, Chennai-600 028.
4. M/s. Ramani Realtors Private Limited,
Rep. by its Managing Director,
No.5, 2nd Street, Lakshmipuram,
Royapettah, Chennai-600 014.
5. Tamil Nadu Real Estate Regulatory Authority,
Member-III,
Egmore, Chennai-600 008.

...Respondents



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Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus against the respondent No.2 and 3 herein, thereby directing them to comply with the expedite the order-cum-directions dated 06.06.2023 issued by the Hon'ble Tamil Nadu Real Estate and Regulatory Authority, Chennai.

For Petitioner : Mr.S.V.Pravin Rathinam

For Respondents : Mr.U.Baranidharan, AGP, for R1 to R3

ORDER

This Writ petition has been filed by the petitioner seeking direction to the 2nd and 3rd respondents to comply with the expedite the order-cum-directions dated 06.06.2023 issued by the Hon'ble Tamil Nadu Real Estate and Regulatory Authority, Chennai.

2. Mr.U.Baranidharan, learned Additional Government Pleader takes notice on behalf of the respondents 1 to 3. In view of the consent expressed by the learned counsel on either side, this petition is taken up for final disposal at the admission stage itself.

3. Since no adverse order is being passed against the 4th and 5th respondents, notice to the 4th and 5th respondents is dispensed with.



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4. The case of the petitioner is that the petitioner and his late wife had booked an apartment measuring an extent of 1143 sq. ft., in the 1st Floor, Flat No.113(Tower-2) of the project “Ramani Coconut Akshaya Today” and they entered into a Memorandum of Agreement dated 30.09.2013 with the 4th respondent, as per which, the petitioner had agreed to purchase the said apartment for a sale consideration of Rs.36,00,000/- and the 4th respondent had agreed to complete the entire construction within a period of 15 months from the date of the said agreement ie., within 31.12.2014. Since the 4th respondent failed to handover the possession of the flat within the agreed time, the petitioner and his late wife decided to terminate the said agreement dated 30.09.2013, vide termination letter dated 03.02.2015 and had sought for refund of the sum of Rs.34,92,000/- paid by the petitioner. However, as the 4th respondent failed to repay the amount, the petitioner filed a complaint u/s. 31 r/w 71 of the Real Estate (Regulation and Development) Act, 2016 in RCP.No.02 of 2022 and the Single Member bench, vide order dated 22.11.2022 directed the 4th respondent to refund the sum of Rs.34,92,000/- along with interest at the rate of 9.30% p.a. from the date of payment till the date of repayment and also ordered for payment of Rs.25,000/- towards



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litigation expenses in favour of the petitioner. Despite the above said order, as the 4th respondent failed to repay the amount, the petitioner filed an Execution Petition in EP.No.06 of 2023 in RCP.No.02 of 2022 and the TNRERA, vide order dated 06.06.2023 issued a Recovery warrant directing the District Collector, Coimbatore to collect and satisfy the claims and though the said warrant was forwarded to the District Collector, Chennai/the 2nd respondent, however, till date, the 2nd respondent has not taken any effective steps for recovery of the amounts due from the 4th respondent. Hence, the petitioner has come up with the present Writ petition.

5. Though very many grounds have been raised, the learned counsel for the petitioner submitted that it would suffice if this Court issues direction to the 2nd and 3rd respondents to execute the recovery warrant dated 06.06.2023 and recover a sum of Rs.34,92,000/- from the 4th respondent along with further interest at 9.30% p.a. payable to the petitioner until realization.



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6. Learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that, the recovery warrant dated 06.06.2023 will be executed within the time stipulated by this Court.

7. In view of the aforesaid submissions, this Court without expressing any opinion on the merits of the case, directs the 2nd and 3rd respondents to implement/execute the Recovery Warrant dated 06.06.2023 issued by TNRERA in EP.No.06 of 2023 in RCP.No.02 of 2022, within a period of twelve weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner and the 4th respondent, if there is no legal impediment.

8. With the above directions, this Writ petition stands disposed of. No costs.

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skt

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

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WEB COPY To:

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M.DHANDAPANI, J.

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