



WEB COPY



W.P.No.23390 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2024

CORAM:

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

W.P.No.23390 of 2024
and
WMP.No.25554 of 2024

R.Rajalakshmi

...Petitioner

Vs.

1. The District Collector,
Chengalpet District Collectorate,
GST Road, Chengalpet – 603 001.

2. M/s. Akshaya Pvt. Ltd.,
7th Floor, 117/1, LB Road,
Adyar, Chennai – 600 020.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to fully recover a sum of Rs.78,60,460/- (as on 15.02.2024) along with further interest at 10.05% p.a. payable to the petitioner until realization from the 2nd respondent in terms of the recovery warrant dated 08.09.2023 issued by the Tamil Nadu Real Estate Regulatory Authority, Chennai in EP.No.31 of 2023 in CCP.No.201 of 2021 under Section 40(1) of the Real Estate (Regulation and Development) Act, 2016, within a time frame fixed by this Hon'ble Court.

For Petitioner : Mr.Pavan Kumar Gandhi



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For Respondents : Mr.U.Baranidharan, AGP, for R1
: Notice dispensed with, for R2

ORDER

This Writ petition has been filed by the petitioner seeking direction to the 1st respondent to fully recover a sum of Rs.78,60,460/- (as on 15.02.2024) along with further interest at 10.05% p.a. payable to the petitioner until realization from the 2nd respondent in terms of the recovery warrant dated 08.09.2023 issued by the Tamil Nadu Real Estate Regulatory Authority, Chennai in EP.No.31 of 2023 in CCP.No.201 of 2021 under Section 40(1) of the Real Estate (Regulation and Development) Act, 2016.

2. Mr.U.Baranidharan, learned Additional Government Pleader takes notice on behalf of the 1st respondent. 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 2nd respondent, notice to the 2nd respondent is dispensed with.

4. The case of the petitioner is that the petitioner had booked a flat



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bearing No.1304 in Block D5 in “Akshaya Today” real estate project, that is developed and promoted by the 2nd respondent. Since the 2nd respondent failed to handover the possession of the flat within the agreed time, even though the petitioner paid a sum of Rs.40,45,300/-, the petitioner filed a Compensation Claim Petition in CCP.No.201 of 2021 seeking refund of the amount paid by the petitioner along with interest. The TNRERA, vide order dated 20.02.2023 directed the 2nd respondent to refund the sum of Rs.40,45,300/- along with interest at the rate of 10.05% p.a. from the date of payment till the date of repayment and also ordered for payment of Rs.25,000/- towards litigation expenses in favour of the petitioner. Despite the above said order, as the 2nd respondent failed to repay the amount, the petitioner filed an Execution Petition in EP.No.31 of 2023 in CCP.No.201 of 2021 and the TNRERA, vide order dated 08.09.2023 issued a Recovery warrant to the 1st respondent under Section 40(1) of the Real Estate (Regulation and Development) Act, 2016 (in short 'Act') r/w. Rule 26 of the TNRERA Rules to recover the amounts ordered vide order dated 20.02.2023. Though the said Recovery warrant was issued on 08.09.2023, till date, the 1st respondent has not taken any effective steps for recovery of



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the amounts due from the 2nd respondent. Thereby, the petitioner sent a letter dated 15.02.2024 to the 1st respondent seeking to take necessary steps to execute the recovery warrant dated 08.09.2023 and recover a sum of Rs.78,60,460/- (as on 15.02.2024) from the 2nd respondent, which evoked no response. 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 1st respondent to execute the recovery warrant dated 08.09.2023 and recover a sum of Rs.78,60,460/- (as on 15.02.2024) from the 2nd respondent along with further interest at 10.05% p.a. payable to the petitioner until realization.

6. Learned Additional Government Pleader appearing for the 1st respondent submitted that, the petitioner's letter dated 15.02.2024 will be considered and appropriate orders will be passed in accordance with law within the time stipulated by this Court.

7. In view of the aforesaid submissions, this Court without expressing



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any opinion on the merits of the case, directs the 1st respondent to implement the Recovery Warrant dated 08.09.2023 issued by TNRERA in EP.No.31 of 2023 in CCP.No.201 of 2021, by considering the petitioner's letter dated 15.02.2024, within a period of five months from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner and the 2nd respondent, if there is no legal impediment.

8. With the above directions, this Writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous petition is closed.

19.08.2024

skt

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

To:

The District Collector,
Chengalpet District Collectorate,
GST Road, Chengalpet – 603 001.

M.DHANDAPANI, J.

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