



W.P.No.25125 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.25125 of 2024
and W.M.P.No.27446 of 2024**

1.Balaji Ramachandran

2.Popjee Minnie Balaji

... Petitioners

Vs.

1.The District Collector,
Kancheepuram District.

2.The Tahsildar,
Walahjabad,
Kancheepuram District.

3.M/s.Oragadam City Developers Private Limited,
Rep.by its Director,
No.5/3, Giri Road, T.Nagar,
Chennai-600 017.

4.M/s.New Town Housing,
Rep.by its Partner,
No.3G, Prince Arcade, 29,
Cathedral Road,



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Chennai-600 086.

5.M/s.Value Build Homes,
Rep.by its Partner,
No.3G, Prince Arcade, 29,
Cathedral Road,
Chennai-600 086.

6.M/s.Vilagam Housing,
Rep.by its Partner,
No.3G, Prince Arcade, 29,
Cathedral Road,
Chennai-600 086.

7.M/s.Frontier Housing Private Limited,
Rep.by its Director,
No.3G, Prince Arcade, 29,
Cathedral Road,
Chennai-600 086.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent Nos.1 and 2 to initiate and complete the recovery proceedings to the extent of Rs.25,16,957/- along with interest at the rate of 10.15% per annum from the date of respective payment till repayment and other compensations as per the warrant dated 28.12.2022 passed by the Adjudication Officer of TNRERA in E.P.No.8/2022 in CCP.No.52 of 2022 issued under Section 40(1) of RERA Act r/w. Rule 26 of TNRERA Rules by following due process of law within a time frame fixed by this Court.



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For Petitioner : Mr.J.Aravind
For Respondents : Mr.U.Baranidharan
Additional Government Pleader
for R1 and R2
R3-Dispensed with

ORDER

This Writ Petition has been filed to direct the respondent Nos.1 and 2 to initiate the recovery proceedings, as per the warrant dated 28.12.2022 issued by the Adjudication Officer of the Tamil Nadu Real Estate Regulatory Authority in E.P.No.8/2022 in CCP.No.52 of 2022 under Section 40(1) of the Real Estate Regulatory Authority Act r/w. Rule 26 of the Tamil Nadu Real Estate Regulatory Authority Rules, within a time frame fixed by this Court.

2. The learned counsel for the petitioners submits that the petitioners have booked a flat with the third respondent and the total sale consideration of the apartment was Rs.25,57,125/-, out of which, a sum of Rs.25,16,957/- was paid by the petitioners to the third respondent and a sale deed dated 09.11.2011 was executed by the third respondent in favour of the



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petitioners vide Document No.6287 of 2011 on the file of the Sub-Registrar's Office, Walajabad for conveying the property and the third respondent promised to hand over the flat within 25 months including three months grace period as per the Sale Cum Construction Agreement dated 08.11.2011, however, there was no progress in the construction of the project. Therefore, the petitioners have approached the Tamil Nadu Real Estate Regulatory Authority, who is the appropriate Authority, to refund the amount paid by the petitioners along with interest and compensation and lodged a complaint in CCP.No.52 of 2020 and the Tamil Nadu Real Estate Regulatory Authority has passed an order dated 19.11.2021 directing the third respondent to refund the consideration amount of Rs.25,16,957/- along with interest at the rate of 10.15% per annum from the date of payment till repayment and pay the compensation of Rs.1,00,000/- towards mental agony and Rs.25,000/- towards legal expenses incurred by them. Aggrieved over the same, the third respondent preferred an appeal before the Tamil Nadu Real Estate Regulatory Authority in Unnumbered Appeal S.R.No.427/2022 and the same was dismissed as not maintainable on 18.11.2022.



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3. The learned counsel appearing for the petitioners would further submit that in order to execute the order of the Tamil Nadu Real Estate Regulatory Authority, the petitioners filed an Execution Petition No.8 of 2022 in CCP.No.52 of 2020 and the Tamil Nadu Real Estate Regulatory Authority has issued recovery warrant dated 28.12.2022 under Section 40(1) of the Real Estate Regulatory Authority Act r/w. Rule 26 of the Tamil Nadu Real Estate Regulatory Authority Rules, for non-compliance of the order dated 19.11.2021 passed in CCP.No.52 of 2020 and the same was communicated to the first respondent, namely, the District Collector, Kancheepuram, to collect the amount from the third respondent. In pursuance of the same, the petitioners also made a representation to the first respondent dated 27.07.2023 to comply with the order of the Tamil Nadu Real Estate Regulatory Authority, however, the first respondent neither complied the order nor responded to their representation dated 27.07.2023 and the petitioners have also sent a reminder vide representation dated 02.07.2024, but the same has been kept in pending. Therefore, the petitioners have filed the present petition.



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4. The learned counsel appearing for the petitioners further submits that it would suffice, if this Court directs the first respondent to execute the order dated 28.12.2022 passed in E.P.No.8 of 2022 in CCP.No.52 of 2020 by the Adjudicating Officer of the Tamil Nadu Real Estate Regulatory Authority.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2.

6. Since no adverse order is going to be passed against the third respondent, notice to the third respondent is dispensed with.

7. In view of the limited request as sought for by the learned counsel appearing for the petitioner, this Court, without going into the merits



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of the case, directs the first respondent to execute the order dated 28.12.2022 passed in E.P.No.8 of 2022 in CCP.No.52 of 2020 by the Adjudicating Officer of the Tamil Nadu Real Estate Regulatory Authority, within a period of five months from the date of receipt of a copy of this order, if there is no legal impediment.

8. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs. Connected miscellaneous petition is closed.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
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M.DHANDAPANI, J.

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