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W.P.No.28178 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.28178 of 2024
and W.M.P.Nos.30722 to 30724 of 2024**

Kalidasa Shankaran

Vs.

... Petitioner

1.The District Collector,
Chengalpattu District,
Collectorate,
GST Road, Chengalpattu-603 001.

2.The Tahsildhar,
Thiruporur Taluk,
Thandalam,
Tamil Nadu-603 105.

3.Marg Properties Limited,
Represented by its Director,
15/26, Kottur Gardens,
Adyar House, Kotturpuram,
Chennai, Tamil Nadu,
India.

4.G.Ramakrishna Reddy

5.V.P.Rajini Reddy

....Respondents



W.P.No.28178 of 2024

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents 1 and 2 to execute the Recovery Warrant dated 21.09.2023 issued by the Tamil Nadu Real Estate Regulatory Authority in favour of the petitioner by way of attachment and sale of any of the properties, movable or immovable belonging to the respondents 3 and 5 in accordance with the provisions of the Tamil Nadu Revenue Recovery Act and report on the same within a time frame stipulated by this Court.

For Petitioner : Mr.S.Varsha

For Respondents : Mr.U.Baranidharan
Additional Government Pleader
for R1 and R2

ORDER

This Writ Petition has been filed to direct the respondents 1 and 2 to execute the Recovery Warrant dated 21.09.2023 issued by the Tamil Nadu Real Estate Regulatory Authority in favour of the petitioner by way of attachment and sale of any movable or immovable properties belonging to the respondents 3 and 5 in accordance with the provisions of the Tamil Nadu Revenue Recovery Act, within a time frame stipulated by this Court.



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WEB COPY

2. The case of the petitioner is that the petitioner has shown interest for purchasing a residential house in the property that was developed by the third respondent under the name and style of "Savithanjali" and the fourth and fifth respondents were the Directors of the third respondent Company. It was stated by the third respondent Company that they have obtained all permissions and the project would be completed and possession would be handed over to the petitioner within December, 2013. The petitioner has also paid a sum of Rs.43,31,687/- out of the agreed price amount of Rs.48,96,412/- and an agreement for sale and the Construction Agreement were also entered into between the petitioner and the third respondent on 28.02.2013 and a sale deed was also executed in favour of the petitioner for conveying the undivided share of land and it was registered in the office of the Sub-Registrar, Thiruporur and the petitioner had incurred a sum of Rs.68,290/- towards registration cost. However, there is no development in construction process and when it was questioned by the petitioner with the respondents 4 and 5, they gave evasive reply and thereby, the petitioner had approached the Tamil Nadu Real Estate Regulatory



W.P.No.28178 of 2024

WEB COPY

Authority under C.C.P.No.125 of 2021 stating that there had been an enormous delay on the part of the third respondent managed by the respondents 4 and 5 and the Tamil Nadu Real Estate Regulatory Authority, Chennai, vide order dated 25.11.2022, directed the third respondent to refund the amount paid by the petitioner along with interest. Despite the same, the third respondent did not comply with the same and the petitioner has filed E.P.No.18 of 2023, wherein, the Tamil Nadu Real Estate Regulatory Authority had issued Recovery Warrant on 04.08.2023 under Section 40(1) of the Real Estate (Regulation and Development) Act, 2016, r/w. Rule 26 of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017, and the Administrative Officer of the Tamil Nadu Real Estate Regulatory Authority vide order dated 21.09.2023 has communicated the recovery warrant issued by the Tamil Nadu Real Estate Regulatory Authority. Thereafter, the petitioner had sent a representation dated 29.09.2023 to the first respondent requesting them to take appropriate steps to execute the Recovery warrant issued against the third respondent and a Warrant in R.C.No.012642/2023/U3 dated 24.10.2023 was issued to the



W.P.No.28178 of 2024

WEB COPY

second respondent by the first respondent for the purpose of executing the Recovery Warrant that was issued by the Tamil Nadu Real Estate Regulatory Authority and thereafter, the petitioner had sent another representation dated 31.10.2023 to the second respondent herein requesting to take appropriate action for executing the Recovery warrant issued by the Tamil Nadu Real Estate Regulatory Authority, however, no action was taken. Hence, this Writ Petition.

4. The learned counsel appearing for the petitioner further submits that it would suffice, if this Court directs the first and second respondents to execute the Recovery Warrant dated 21.09.2023 issued by 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.



W.P.No.28178 of 2024

WEB COPY

6. In view of the limited request as sought for by the learned counsel appearing for the petitioner, this Court, without going into the merits of the case, directs the first and second respondents to execute the recovery warrant dated 21.09.2023 issued by the Tamil Nadu Real Estate Regulatory Authority, Chennai, within a period of 12 weeks from the date of receipt of a copy of this order, if there is no legal impediment.

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

24.09.2024

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb



W.P.No.28178 of 2024

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To

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WEB COPY



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