



W.P.No.3146 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 02.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.3146 of 2025
and
W.M.P.No.3469 of 2025

J.KALAIVANI

... Petitioner

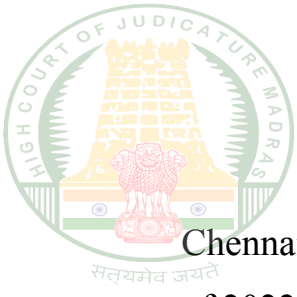
Vs

1. THE DISTRICT COLLECTOR,
CHENNAI DISTRICT COLLECTOR OFFICE,
RAJAJI SALAI, FOURTH FLOOR,
62, BEACH ROAD, GEORGE TOWN,
CHENNAI-600 001.
2. THE TAHSILDAR,
GUINDY TALUK, GUINDY TALUK OFFICE,
69/40, ANNA SALAI, LITTLE MOUNT,
GUINDY, CHENNAI-600 032.
3. M/S.VGN DEVELOPERS PRIVATE LIMITED,
REP. BY ITS MANAGING DIRECTOR,
AT NO.153, WALLACE GARDEN,
2ND STREET, NUNGAMBAKKAM,
CHENNAI-600 006.

PRESENTLY HAVING OFFICE AT:
Y-222, VGN, KIMBERLY TOWERS,
2ND AVENUE, Y BLOCK,
ANNA NAGAR, CHENNAI-600 040.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, direct the first respondent to implement order dated 03.12.2021 passed by the Tamil Nadu Real Estate Regulatory Authority,



W.P.No.3146 of 2025

Chennai, in C.C.P.No.133 of 2020 and in order dated 31.05.2022 in E.P.No.09 of 2022 immediately.

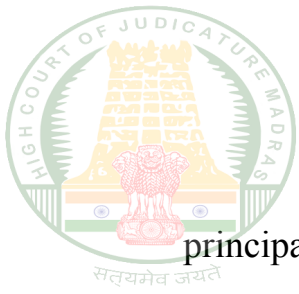
WEB COPY

For Petitioner : Mr. Nagesh Nakhul
For R1 & R2 : Dr.S.Suriya
Additional Government Pleader
For R3 : Mr.R.Venkatraman

ORDER

This writ petition is filed for a mandamus directing the first respondent to implement the order dated 03.12.2021, passed by the Tamil Nadu Real Estate Regulatory Authority, Chennai, in C.C.P.No.133 of 2020 and the order dated 31.05.2022 in E.P.No. 9 of 2022.

2. The factual matrix in which this writ petition arises is that the petitioner is said to have booked a flat in the year 2015 with the third respondent. However, there was a delay and therefore, the petitioner approached the Real Estate Regulatory Authority. The complaint of the petitioner was taken on file as C.C.P.No. 133 of 2020. After hearing both sides and considering all the relevant factors, the authority passed an order on 03.12.2021, directing the third respondent to return the complainant the



W.P.No.3146 of 2025

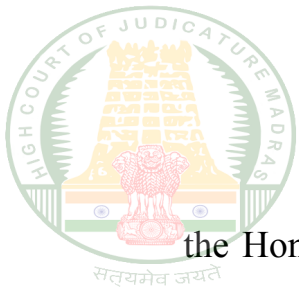
principal sum of Rs.43,43,153/- along with interest at the rate of 9.30% per

WEB COPY

annum and a further sum of Rs.2,25,000/- towards compensation and legal expenses. The said order was not complied with by the third respondent. Therefore, Execution Petition No. 9 of 2022 was filed. The same was again considered and a recovery warrant under Section 40(1) of the Real Estate Regulation Act, 2016, read with Rule 26 of the Tamil Nadu Real Estate (Regulation and Development) Rules, 2017 was issued to the District Collector, Chennai, to collect the amounts as per the Tamil Nadu Revenue Recovery Act and pay them to the petitioner. Accordingly, a recovery certificate was also issued for a sum of Rs.65,96,238/- along with further interest thereon. Complaining that no action has been taken thereafter, the petitioner has approached this Court.

4. Before this Court, the third respondent appeared through learned counsel and submitted that there are chances of settlement in the instant case. This Court also referred the parties to mediation. However, the report has now been received that the parties were unable to amicably resolve the issue and therefore, the matter is again taken up for arguments.

5. The learned counsel appearing on behalf of the petitioner relied upon



W.P.No.3146 of 2025

the Hon'ble Division Bench judgment of the Bombay High Court in ***Rustam***

Phiroze Mehta v. State of Maharashtra [(2021) SCC Online Bom 1090].

According to the learned counsel appearing for the petitioner, the Hon'ble Division Bench considered the issue and held that even the order of RERA is to be considered like a decree of the Court. Therefore, the Hon'ble Division Bench directed the deposit of the principal sum before the High Court itself and instructed the authorities under the Revenue Recovery Act to proceed further in respect of the interest component. The matter was also appealed before the Hon'ble Supreme Court of India in S.L.P.No. 2122 to 2123 of 2021 and by order dated 12.02.2021, the Hon'ble Supreme Court approved the said approach adopted by the Bombay High Court and the Special Leave Petition filed by the builder was dismissed. He further submits that same procedure can be followed in the present case also.

6. The learned Additional Government Pleader appearing for the first and second respondents submitted that proceedings are being conducted in the manner known to law and that the respondents did not proceed further as the matter was pending before this Court.

7. The learned counsel appearing on behalf of the third respondent



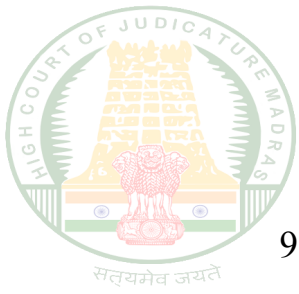
W.P.No.3146 of 2025

submitted that the third respondent is making all efforts to settle the issue.

WEB COPY

However, the petitioner is not agreeing to a reasonable interest. According to the learned counsel for the third respondent, during the original period of the agreement for a good three years, the property was wrongly attached by the Enforcement Directorate. Ultimately, the petitioner was exonerated of the charges and the property was released by orders of the Hon'ble Supreme Court of India. After the same was ordered, immediately COVID-19 pandemic struck and therefore there was a delay. This is the case of a huge development of 10.46 acres of land consisting of 1,559 flats in 14 floor buildings each. Therefore, in such large projects, the Real Estate Regulatory Authority has already expressed concerns about the rigid approach being taken in respect of the provisions relating to withdrawal of the offers from purchasers, as the same would affect the entire project in respect of the others also.

8. In any event, it is submitted that the third respondent has paid a sum of Rs.10,00,000/- towards the amount due. If the petitioner agrees to an amicable settlement, the remaining amount can be paid at the earliest, considering that the third respondent is also facing financial difficulties.



W.P.No.3146 of 2025

9. I have considered the rival submissions made on either side and perused the material records of the case.

10. This is a matter where the petitioner booked a flat as early as 30.11.2015, and the delivery date was on 29.11.2018. The petitioner approached the RERA Authority on 28.08.2020. This Court cannot now go into the various difficulties expressed by the third respondent in the form of ED attachment or the COVID-19 pandemic, as those are factors that ought to have been raised before the RERA Authority. The RERA Authority granted full opportunity to both sides and passed a considered order. The order has become final. Thereafter, an execution petition was also filed and a recovery certificate has been issued in the manner known to law.

11. When the recovery certificate was issued, what remains is to recover the sum mentioned in the Recovery Certificate. When a settlement proposal was made, this Court attempted to settle the issue by referring the parties to mediation, where both parties could not amicably resolve the issue. In view thereof, the entire amount as per the recovery certificate has to be collected by the first respondent in the manner known to law. However, it can be seen that no order of the Court or Tribunal of this country can allow to remain just a



W.P.No.3146 of 2025

WEB COPY

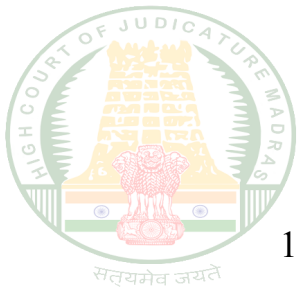
piece of paper and all Courts dealing with the proceedings have to endeavor to ensure that orders of the Court/Tribunals are complied with by the parties against whom the decree/directions are passed. The Honourable Division Bench of the Bombay High Court considered the issue in detail and considered the powers of the High Court under the Contempt of Courts Act and under Article 226 of the Constitution of India with reference to the cases of the disobedience of the orders of the Court in paragraph No.122 onwards. Ultimately, in paragraph No. 144, the Court directed the builder to deposit the principal amount in the Court itself while directing the authorities concerned to proceed with the recovery of the balance amount by way of proceedings under the Revenue Recovery Act.

12. As a matter of fact, an appeal was filed before the Honourable Supreme Court of India and the Honourable Supreme Court passed the following orders in S.L.P. Civil No. 2122 of 2021 dated 12.02.2021 and the same is extracted hereunder:-

"We give our full imprimature to the approach adopted by the High Court to ensure that in one manner or the other the petitioner honours the decree which has been passed against him,

The Special Leave Petition is dismissed.

Pending applications stand disposed of."



W.P.No.3146 of 2025

WEB COPY

13. In view thereof, I am of the view that the said approach can be adopted in the present case also. The principal amount in this case is Rs.43,43,153/-. The petitioner has paid a sum of Rs. 10,00,000/- and therefore, the third respondent shall, by way of demand draft, pay the petitioner the balance principal sum of Rs.33,43,153/- on or before 10.06.2025. With reference to the balance amount of interest, both the petitioner and the third respondent shall file a calculation before the first respondent, the District Collector. The first respondent shall thereafter instruct the second respondent to proceed under the Tamil Nadu Revenue Recovery Act. Needless to mention that both actions by way of passing a distraint order in respect of movable property, as well as issuing a demand notice and attaching immovable property can be simultaneously undertaken and efforts have to be made to realize the balance amount due at the earliest possible time.

14. This writ petition stands disposed of on the above terms. Consequently, connected miscellaneous petition is closed. No costs.

02.04.2025

1/2

Neutral Citation: Yes/No
nsl



WEB COPY



W.P.No.3146 of 2025

D.BHARATHA CHAKRAVARTHY, J.

nsI

To

1. THE DISTRICT COLLECTOR,
CHENNAI DISTRICT COLLECTOR OFFICE,
RAJAJI SALAI, FOURTH FLOOR,
62, BEACH ROAD, GEORGE TOWN,
CHENNAI-600 001.
2. THE TAHSILDAR,
GUINDY TALUK, GUINDY TALUK OFFICE,
69/40, ANNA SALAI, LITTLE MOUNT,
GUINDY, CHENNAI-600 032.

W.P.No.3146 of 2025

02.04.2025

1/2