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C.R.P.(NPD) No.110 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2025

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THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(NPD) No.110 of 2025
and C.M.P.No.852 of 2025

M/s.MARG Properties Pvt. Ltd.,
Rep. by its Managing Director,
previously had registered office at
“Marg Axis”, 4/138, Rajiv Ghandhi Road,
(Old Mahabalipuram Road),
Kottivakkam, Chennai-600 410.

Now having its registered office at
Sri Sai Subhodhaya Apartments,
No.57/2B, East Coast Road,
Thiruvanmiyur, Chennai-600 041.

... Petitioner/Judgment Debtor/Opposite Party

-VS-

V.Devarajan

... Respondent/Decree Holder/Complainant

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the impugned docket order dated 18.07.2024 passed in E.A.No.8 of 2021 in C.C.No.263 of 2015 on the file of State Consumer Dispute Redressal Commission, Chennai.

For Petitioner : Mr.M.Chandru
For Mr.A.Rithvik



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ORDER

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Challenging the issuance of Non Bailable Warrant against the revision petitioner by the State Consumer Dispute Redressal Commission (in short 'State Commission'), Chennai in E.A.No.8 of 2021 in C.C.No.263 of 2015, this Civil Revision Petition has been filed.

2. A complaint has been lodged against the revision petitioner alleging deficiency in service in non delivery of the purchased flat beyond the agreed time even after receiving the sale consideration. According to the respondent, he had booked a flat with the petitioner by paying the initial booking amount of Rs.5,00,456/- and after payment, two agreements were entered into between them, of which, one is for sale and the other one is for construction. Though the flat was to be handed over on or before 31.12.2012 and the respondent also paid the entire sale consideration, there was a breach of agreement, which forced the respondent to file a complaint claiming damages. The State Commission has awarded Rs.29,93,900/- with interest @ 12% p.a. from 13.12.2012 in addition to awarding Rs.2,00,000/- towards mental agony and expenses and Rs.10,000/- for cost of the



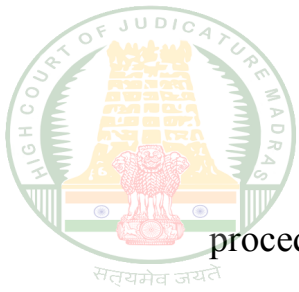
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complainant. Challenging the said finding, the revision petitioner has filed an appeal before the National Consumer Dispute Redressal Commission, New Delhi on deposit of substantial payment of Rs.35,86,000/- as mandated under Section 41 of the Consumer Protection Act. However, in the meanwhile, an Execution Petition has been filed by the respondent to enforce the Order of the State Commission. In the Execution Petition, Non Bailable Warrant has been issued against the revision petitioner. Challenging the said order, the present revision petition has been filed.

3. The revision petitioner would mainly contend that the petitioner has deposited a Demand Draft of Rs.35,86,000/- and the same has not been considered by the State Commission. He would further contend that the order of the State Commission is not proper according to law.

4. As the issue is between the Court and the party, no notice is required to the respondent.

5. It is relevant to note that any Order passed by the Commission could be enforceable as a decree of a Civil Court following the



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procedure under Order XXI of Code of Civil Procedure. Besides, non compliance of the Order is a punishable offence for a term which is punishable not less than one month as per Section 72 of Consumer Protection Act. When a person has failed to comply with the order, this Court is of the view that he should be proceeded for punishment by taking cognizance under section 72 of the Consumer Protection Act. In such case, the Commission will automatically assume the jurisdiction of the First Class Magistrate for trial of such offence. As long as the Court has not taken cognizance of any offence, in view of this Court, issuance of Non Bailable Warrant does not arise at all under Code of Civil Procedure. Whereas, in the present case, an execution petition alone has been filed to enforce the Order.

6. In view of the above facts, the State Commission ought to have proceeded in the execution proceedings on the basis of the procedure set out under Order XXI of Code of Civil Procedure for enforcement as money decree. In such cases, warrant would be issued for civil arrest, that too after complying with the procedure under Code of Civil Procedure, after proof of means to pay that amount. However, such a procedure has not been followed.



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7. That apart, the revision petitioner has already made a substantial payment of Rs.35,86,000/- by way of Demand Draft before the Commission. In such view of the matter, the impugned Order issuing Non Bailable Warrant alone is set aside. Let the Commission proceed with the execution proceedings strictly under Order XX1.

8. With the above directions, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

10.01.2025

Index: Yes / No
Internet: Yes / No
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To:

The State Consumer Dispute Redressal Commission,
Chennai.



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N.SATHISH KUMAR,J.,
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