

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**

Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,

**Execution Petition Nos.50,51,52,53,54,55,56,57,58,59,60,61,62,89,
90,91,92,93,96, 105 and 106 of 2019**

1	Manimaran Rep. by PoA N. Sakkarai	:	EP No.50/2019	IN CCP No.48/2019
2	V. Bhaskara Ramam and V. Usha Rani	:	EP No.51/2019	IN CCP No.61/2018
3	V. Bhaskara Ramam and V. Usha Rani	:	EP No.52/2019	IN CCP No.62/2018
4	Kamala Kannan	:	EP No.53/2019	IN CCP No.113/2018
5	Subodh Srivastava and Manisha	:	EP No.54/2019	IN CCP No.147/2018
6	S.Sivaramakrishnan	:	EP No.55/2019	IN CCP No.116/2018
7	P. Sivanandha Guru	:	EP No.56/2019	IN CCP No.131/2018
8	P.V. Krishna Rao and P.K. Kalpana	:	EP No.57/2019	IN CCP No.65/2018
9	V.C. Surendranath and S.Jayalakshmi	:	EP No.58/2019	IN CCP No.93/2018
10	M.H. Sabir	:	EP No.59/2019	IN CCP No.41/2018
11	N.M. John Britto	:	EP No.60/2019	IN CCP No.81/2019
12	M. H. Imran	:	EP No.61/2019	IN CCP No.42/2018
13	B. Sathyanarayanan and S. Suganya	:	EP No.62/2019	IN CCP No.64/2018
14	Surekha Surendar and K.Surendar	:	EP No.89/2019	IN CCP No.79/2018
15	Parvathi Kumar and Kumar	:	EP No.90/2019	IN CCP No.88/2018
16	Mohammed Kashif and Shammen Raffeq	:	EP No.91/2019	IN CCP No.49/2019
17	S.Athimoola Ganesan Rep.by PoA V.Muthukrishnan	:	EP No.92/2019	IN CCP No.66/2019
18	S.Athimoola Ganesan Rep.by PoA V.Muthukrishnan	:	EP No.93/2019	IN CCP No.67/2019

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- 19 A. Ramasamy
Rep. by PoA
R. Sathyanarayana : EP No.96/2019 IN CCP No.82/2019
- 20 Sulochana
Thiruvengadam and
Srinivasan
Thiruvengadam : EP No.105/2019 IN CCP No.70/2018
- 21 Sulochana
Thiruvengadam and
Srinivasan
Thiruvengadam : EP No.106/2019 IN CCP No.71/2018
...COMPLAINANTS

Vs.

M/s. Marg Properties Ltd.
Rep. by Director, G.R.K. Reddy

...RESPONDENT

(Regn. No.TN/01/Building/0055/2018)

Complainant
(CCP No. 96/2019) : In Person

Complainants
(all other CCPs) : Rep. by Mr. J. Pachaiappan, Advocate
Respondent : Rep. by Dr. S Padma, Advocate

**Heard on : 12.12.2019
and 23.12.2019
Delivered on : 31.12.2019**

**ORDER FOR RECOVERY UNDER SECTION 40(1) OF THE RERA ACT FOR
NON-COMPLIANCE OF THE ORDERS IN THE ABOVE CCPs DATED
07.12.2018, 14.12.2018, 21.12.2018, 11.01.2019, 28.02.2019,
29.03.2019, 20.05.2019 and 31.05.2019,**

The above complainants filed the petitions for execution contending that the respondent has not complied with the orders passed in the respective CCPs filed by them.

2. The respondent filed reply stating that the execution petitions are liable to be dismissed on the ground that the entire land of the project is mortgaged with various financial institutions and different buyers have booked apartments

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in different blocks and some of the apartments has been already sold and section 40(1) read with Rule 26 of the TNRERA Rules cannot be invoked and the rate of interest under the Tamil Nadu Revenue Recovery Act, 1864 is only 6% per annum and the petitions are liable to be dismissed and the civil court only has power to execute orders of decree.

3. Heard both sides. It is not the case of the respondent that any appeals against the orders in the above CCPs are preferred and pending or any amount has been settled towards the claim as per the orders made by this Forum in the above petitions.

4. In Pioneer Urban Land and Infrastructure Limited and Ors. Vs. Union of India (UOI) and Ors. reported in MANU/SC/1071/2019, the Hon'ble Supreme Court held that home buyers/allottees are also financial creditors like banks. Compensation, in the legal sense, constitutes actual loss and other losses, both pecuniary and non-pecuniary in nature and includes purchase money, which is actual loss. Therefore, the contention of the respondent on section 40 (1) of the Act read with Rule 26 of the TNRERA Rules is not sustainable.

5. So far as the other points relating to interest under the Tamil Nadu Revenue Recovery Act is concerned, it is suffice to add that the orders in the CCPs were passed by this Forum under the provisions of RERA Act and rules of TNRERA Rules framed under the Act.

6. Regarding the contentions of the respondent that this Forum has not taken in to consideration all the points raised in the main case and the delay was not on the part of the respondent in delivery of the apartment and other contention are concerned, the respondent cannot go beyond the orders passed by this Forum raising various contentions which can be raised only before an appellate Forum. Therefore all the above contentions are liable to be rejected.

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7. Since the amounts due to the complainants under the orders are to be recovered as *arrears of* land revenue, it is just and necessary to issue warrant under section 40(1) of the RERA Act. The EPs are disposed accordingly.

In the result, it is ordered as follows:

Issue recovery warrant under section 40(1) of the RERA Act and send it to the District Collector, Kancheepuram District, Kancheepuram, to collect the same to satisfy the claims under the orders passed in favour of the above complainants.

Sd/-31.12.2019
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI

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N. 
2/1/2020
Administrative Officer