

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**
Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
Execution Petition No. 13 of 2020 in CCP No. 101 of 2019

Swami Nadhan Nair

.....Petitioner/Complainant

Vs.

1. M/s. Marg Properties Limited,

2. The Managing Director

.....Respondents/Respondents

Complainant : Rep by Mr. Ralph.V.Manohar Advocate,

1st and 2nd Respondents : Rep by Dr. Padma Advocate,

Heard on : 17.11.2020

Delivered on : 27.11.2020

**ORDER FOR RECOVERY UNDER SECTION 40 OF THE RERA ACT READ WITH
RULE 26 OF TNRERA RULES FOR NON-COMPLIANCE
OF THE ORDER IN THE ABOVE CCP DATED 13.09.2019**

The above applicant/complainant filed petition for execution of the order contenting that the respondents have not complied with the order passed in the above CCP filed by him.

2. The respondents have not filed any counter in spite of sufficient time being given.

3. Heard both sides. Admittedly the respondents have not preferred any appeal against the order in the above CCP and has not also settled any amount towards the claim of the complainant as per the order made by this Forum in the above complaint.

4. However the law officer of the respondent company who was present at the time of hearing of the EP through video conference submitted that the complainant cannot seek to attach the entire property and the respondents have already conveyed portion of the land to buyers under various sale deeds

TRUE COPY

JK
27.11.2020

and also the rate of interest under the Revenue Recovery Act its only 6% p.a and the petition is liable to be dismissed.

5. The learned counsel for the complainant submitted that the petitioner has sought the mode of execution under section 40(1) as well as under section 40(2) of the RERA Act and relied on the decision of Hon'ble High Court of Kerala reported in CDJ 2016 Ker HC 782 wherein the Hon'ble High Court held that seeking execution of the decree in both ways of arrest and detention and attachment of property alternative or by both is maintainable. Even though the petitioner sought the mode of execution by attachment and sale of the property and arrest and detention of respondents, admittedly the petition is filed only under section 40(1) r/w rule 26 of the TNRERA rules.

6. It was represented by the law officer of the respondents that sale deeds were executed regarding some of the portion of the schedule property by the respondents. But no documents were filed by the respondents. Another objection of the respondent is the rate of interest under the Revenue Recovery Act. TNRERA Rules under rule 18 provides for rate of interest payable by the promoter. Therefore, the objection is not sustainable.

7. Since the amount due to the complainant under the order is to be recovered as an arrear of land revenue, under the Tamil Nadu Revenue Recovery Act 1862, it is just and necessary to issue warrant under section 40(1) of the RERA Act read with Rule 26 of the TNRERA Rules. The EP is disposed accordingly.

In the result, it is order as follows:

Issue recovery warrant under section 40(1) of the RERA Act read with Rule 26 of TNRERA Rules and sent it to the District Collector,

TRUE COPY

Handwritten signature and date:
27.11.2020

Thiruporur Taluk, Kancheepuram District to collect the same to satisfy the claims under the orders passed in favour of the above complainant.

CERTIFIED TO BE TRUE COPY

27.11.2028
LAW OFFICER
REAL ESTATE REGULATORY AUTHORITY

G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI