

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

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

Execution Petition No. 28 of 2020 in CCP No. 100 of 2019

P. Surendran

.....Order Holder/Petitioner

Vs.

M/s. Marg Properties Limited,
Rep by its Director G.R.K. Reddy
(Regn. No.TN/01/Building/0055/2018)

.....Debtor/Respondent

Petitioner : Rep. by Mr. T. Raghavan, Advocate.

Respondent : Rep. by Dr. S. Padma, Advocate.

Heard on : 09.04.2021

Delivered on : 09.07.2021

**ORDER FOR RECOVERY UNDER SECTION 40(1) OF THE RERA ACT
FOR NON- COMPLIANCE OF THE ORDERS IN CCP DATED 13.09.2019**

The above petitioner filed the petition for execution contending that the respondent has not complied with the order passed in the CCP filed by him.

2. The respondent filed reply stating that the execution petitions are liable to be dismissed on the ground that section 40(1) read with Rule 26 of the TNRERA Rules are relating to only interest or penalty or compensation and the interest rate at the rate of 6% per annum is only specified under section 7 of the Tamil Nadu Revenue Recovery Act and the civil court has only power to execute orders of decree.

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3. Heard both sides. It is not the case of the respondent that any appeal is preferred and pending against the orders passed in the above CCP by this Forum and any amount towards the settlement of the claim as per the order to the complainant made to the complainant by him.

4. However, the learned counsel for the respondent relied on the decision of Haryana RERA and also this Forum of TNRERA reported in newspaper to contend that refund may not be allowed if the project is 40% complete and also TNRERA directed buyers and developers to clear their dues in a decision. First of all, any executing court cannot go beyond the decree or order. Before the executing forum or courts, such contentions of the counsel for respondent are not sustainable. Each case depends on its own facts and circumstances. Therefore, the decision relied by the learned counsel cannot be made applicable in the EP at the stage. Therefore, the above contentions are not acceptable.

5. 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, section 40 (1) does not specify refund of the money is not tenable. So far as the other points relating to interest under the Tamil Nadu Revenue Recovery Act and civil court are concerned, the order in the CCP was passed by this Forum, which is a statutory body, under the provisions of RERA Act. Therefore, the objections of the respondent are not sustainable.

6. Since the amount due to the complainant under the order is to be recovered as arrears as land revenue, it is just and necessary to issue warrant under section 40(1) of the RERA Act. The EP is disposed accordingly.

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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 order passed in favour of the above complainant.

CERTIFIED TO BE TRUE COPY

sd: 09.07.2021**G. SARAVANAN****ADJUDICATING OFFICER****TNRERA, CHENNAI.**


LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY