

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**
Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
Execution Petition No.22 of 2021 in CCP NO.103 of 2018

A.R. Ravishankar

... Petitioner/Complainant

Vs.

1.M/s. Marg Properties Ltd

... Respondents/Respondents

2.The Managing Director,M/s.Marg Properties Ltd

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

Respondents : Rep. by Mr. A.C.Kumaragurubaran, Advocate.

Heard on : 08.03.2021

Delivered on : 31.03.2022

**ORDER FOR RECOVERY UNDER SECTION 40(1) OF THE RERA ACT READ
WITH RULE 26 OF TNRERA RULES FOR NON-COMPLIANCE
OF THE ORDER IN CCP NO.103 OF 2018 DATED 08.10.2020**

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

2. The learned counsel for petitioner/complainant submitted that the respondents have neither preferred any appeal nor settled the amounts due under the order in above CCP to the petitioner/complainant and hence the execution of the order for recovery of the amounts under the order to be made by this Forum.

3. The learned counsel for the respondents filed reply stating that the execution petition is neither maintainable in law nor on facts, as such is liable to be dismissed for want of proper and relevant particulars and the project is registered as per the Act and the allegations made by the petitioner is vague, ill motivated and only to wreck vengeance and to prejudice this Hon'ble Authority and the petition lacks merit and the same is liable to be dismissed.

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4. Heard both sides. This Forum by order dated 08.10.2020, ordered for refund of the amount paid with interest and cost on the ground of failure on the part of the respondents to deliver the constructed flat and also directed the respondents to pay the interest, compensation and cost within 60 days from the date of the issue of the order and till date the respondents have not paid the amount under the order towards refund along with interest, compensation and cost and therefore the petitioner/complainant is entitled for execution of the petition by the attachment and sale of the property described in schedule of property under the execution petition.

5. The application for execution of order is filed under section 40(1) of the RERA Act read with Rule 26 of the TNRERA Rules for recovery of the amounts due towards refund of the amount with interest, compensation and cost. However, the applicant sought to issue warrant of arrest and detention of the judgment debtor in Civil Prison wherever found under order XXI Rule 37 & 38 of CPC for non compliance of the order. Since the application is for execution of the order already passed, the request for issuing warrant of arrest and detention cannot be entertained by this Forum simultaneously. Therefore the request for issuing warrant of arrest and detention is rejected.

6. Since the amounts due to the petitioner/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 read with Rule 26 of the TNRERA Rules. 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 read with Rule 26 of TNRERA Rules and forward the same to the District Collector, Kancheepuram, to collect the same to satisfy the claims under the orders passed in favour of the above complainant.

**Sd/- 31.03.2022
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI**

CERTIFIED TO BE TRUE COPY


31.3.2022
**LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY**