

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**
Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
Execution Petition No. 23 of 2021 in CCP No.78 of 2020

V.Alavandhar Petitioner/Complainant

Vs.

M/s. Manju Foundations (P) Ltd.,
Rep. by its Authorised Signatory, S.Chellakannan Respondent/Respondent

Complainant : Rep by Ms.H.Ferosha Shiffon Ansari, Advocate
Respondent : Rep by M/s.Sarvabhauman Associates, Advocates

Heard on : 25.02.2022
Delivered on : 17.03.2022

**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 THE ABOVE CCP DATED 31.12.2020**

The above petitioner/complainant filed the petition for execution stating that the respondent has not complied with the order passed in the above CCP.

2. In the counter filed on behalf of the respondent, it is stated that the respondent has not received any notice about the pendency of the complaint and therefore they could not enter appearance and file their reply to the complaint and they were set ex-parte and ex-parte order was passed against them and they preferred appeal before the Hon'ble Appellate Tribunal in appeal No.114 of 2021, against the order of this Forum and the same is pending and therefore the execution petition is liable to be dismissed with cost.

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3. Heard both sides. The learned counsel for petitioner/complainant submitted that the respondent/promoter was served with notice in the complaint and they wantonly failed to appear with intention to drag on the proceedings and the order of this Forum was passed on merits of the case and therefore the EP is to be allowed. However, the learned counsel for the respondent contended that the order of the Forum was an ex-parte order and was decided without taking the reply of the respondent and therefore the EP is liable to be rejected with cost.

4. On perusal of the records, it is seen that the notice in the complaint sent by the office of this Forum through registered post with acknowledgement was served on the respondent at their address in Ashok Nagar, Chennai. In the counter, the respondent admits that the notice in the EP was served on the respondent at the same address. The respondent stated that they preferred appeal before the Hon'ble Appellate Tribunal. No order of stay against execution of the order of this Forum granted by the Appellate Forum in their favor is produced by the respondent. It is also not the case of the respondent that any amount is deposited in pursuance of any order under the Proviso to section 43(5) of the RERA Act.

5. Considering all the above facts and circumstances, it is held that the petitioner/complainant is entitled for execution of the petition by attachment and sale of the property described in the schedule of the property in the execution petition.

6. Since the amounts due to the complainant under the order is to be recovered as arrears as land revenue as per section 40 of the RERA Act, it is just and necessary to issue warrant under section 40(1) of the RERA Act read with Rule 26 of the TNRERA Rules for recovery of the amounts. 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 send it to the District Collector, Thiruvallur, to collect the same to satisfy the claims under the order passed in favor of the above complainant.

**Sd/- 17.03.2022
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.**

CERTIFIED TO BE TRUE COPY


17.3.2022
LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY