

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

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

Execution Petition No.36 of 2021 in CCP No.263 of 2019

Uma Maheswari

.... Petitioner/Order holder

Vs.

1. M/s. Alliance Projects.,

2. M/s. Alliance Orchid Tech Parks Pvt Ltd.,

Both rep. by their POA, Ravindranath Singh Respondents/Debtors

Complainant : Rep by M/s.RRN Legal, Advocates,

Respondents : Rep by M/s. A.A.V. Partners, Advocates,

Heard on : 28.04.2022

Delivered on : 12.05.2022

**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 23.02.2021.**

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

2. In the counter of the respondents/debtors, it is stated as follows:

“The respondents preferred appeal against the order of this Forum in the above CCP before the Appellate Tribunal in appeal No.71 of 2021. By order dated 28.01.2022 the Appellate Tribunal dismissed the appeal preferred by the respondents. In the light of the judgment of the Hon'ble Supreme Court dated 11.11.2021 in the matter of Newtech Promoters and Developers Pvt. Ltd. Vs State of UP, it was held that with respect to refund of the amount or directing the payment of

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interest for delayed delivery of possession, or penalty, the Hon'ble RERA Authority has the power to examine and determine the outcome of the complaint. The aspect of refund is the main dispute before this Forum and the same ought to be agitated before the Authority. The respondents are taking steps to prefer an appeal before the Hon'ble High Court against the order of dismissal of the order of appeal by the Appellate Tribunal. The respondents are well within the period of limitation of 60 days to prefer the appeal, but due to current pandemic situation and other reasons, the respondents were not in a position to prefer appeal before the Hon'ble High Court. Hence, this Forum has to take the counter on record."

3. By order dated 23.02.2021, this Forum directed the respondents, to refund the amount paid by the petitioner with interest, compensation and cost within 30 days from the date of issue of the order. Admittedly, the respondents preferred appeal before the Hon'ble Tamil Nadu Real Estate Appellate Tribunal and the appeal was dismissed by the Hon'ble Appellate Tribunal by order dated 28.01.2022. The respondents are yet to prefer further appeal against the order of the Appellate Tribunal before the Hon'ble High Court. The execution petition is filed for execution of the order passed by this Forum. It is well settled law that an executing court cannot go beyond its original order. It was open for the respondents to raise all the objections before the Appellate Tribunal to set aside the order of this Forum passed in the above CCP. However, the appeal preferred by the respondents was dismissed by the Tribunal. This Forum, in execution proceeding, cannot go beyond the final order passed in the CCP. Therefore, all the contentions raised by the respondents are liable to be rejected.

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4. Since the amount due to the petitioner/order holder 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 execution petition is disposed accordingly.

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, Chennai, to collect the same to satisfy the claims under the order passed in favor of the above petitioner/complainant.

Sd/- 12.05.2022
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.

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12.5.2022
LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY