

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

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

Execution Petition No.71 of 2021 in CCP No.168 of 2019

Abhishek Modi

.... Applicant/Order holder

Vs.

1. M/s. Influence Infrastructure
Rep by its Partner Naresh Kumar Jain,
2. M/s. Influence Enterprises (India) Private Limited
Rep by its MD, Naresh Kumar Jain
3. M/s. Vijay Shanthi Builders Limited,
Rep by its MD, Chandan Kumar Jain

.... Respondents/Debtors

Complainant : Rep by Mr.Anant Merathia, Advocate,

Respondents 1&2 : Rep by Ms.S.Revathy, Advocate

Respondent 3 : Rep by M/s.Aiyar and Dolia, Advocates

Heard on : 21.04.2022

Delivered on : 29.04.2022

**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 28.10.2020.**

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

2. In spite of sufficient time being given, the first and second respondents have not filed any counter. In the counter filed by the third respondent, it is contended that the execution petition is not maintainable and the third respondent does not fall within the definition of promoter as defined under section 2(zk) of the RERA Act and the respondent is only a financier of the

TRUE COPY

149
29/04/2022

project and the third respondent has no liability or legal mandate under the proviso to section 43(5) of the RERA Act to make any pre deposit in the appeal before the Hon'ble Appellate Tribunal and therefore the respondent preferred CMSA No.71 of 2021 before the Hon'ble High Court and the same is pending on the files of the High Court and therefore the above execution petition is to be kept in abeyance pending disposal of the above CMSA by the Hon'ble High Court.

3. By order dated 28.10.2020 in the CCP, this Forum directed the respondents, either jointly or severally, to refund the amount paid with interest, compensation and cost within 30 days of the issue of the order. Admittedly, the respondents preferred appeals before the Hon'ble Appellate Tribunal and the appeals were dismissed for failure to deposit the amount as per the orders of the Tribunal.

4. So far as the third respondent is concerned, by order dated 26.04.2021, the Hon'ble Appellate Tribunal dismissed the appeal for non compliance of the order passed under Section 43(5), in spite of extension of time granted by the Tribunal in M.A No.2/2021. Against the said order of the Hon'ble Appellate Tribunal, the third respondent has preferred CMSA No.71 of 2021 before the Hon'ble High Court. It is not the case of the third respondent that any interim order of stay of proceedings in the EP was made by the Hon'ble High Court. This Forum as an executing Court cannot go beyond the order passed in the main complaint. Therefore, the objections of the third respondent are not sustainable.

TRUE COPY

leg
26/04/2022

5. Since the amount due to the applicant/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 EP 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, Chengalpattu, to collect the same to satisfy the claims under the order passed in favor of the above applicant/complainant.

Sd/- 29.04.2022
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.

CERTIFIED TO BE TRUE COPY


29.4.2022
LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY