

BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI
Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
Execution Petition No. 90 of 2021 in CCP No.100 of 2020

1. Sivakami Marikani Petitioners/Order Holders
2. Arunn K.R
Rep by their PoA, K.Rathinamuthu

Vs.

M/s. Mantri Technology Constellations Pvt. Ltd.
Rep by its CMD, Susheel Mantri Respondent/Debtor

Complainant : Party-in-person

Respondent : Rep by M/s. Sarvabhauman Associates, Advocates

Heard on : 12.05.2022

Delivered on : 27.05.2022

**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 29.10.2021**

The above petitioners/order holders filed the petition for execution stating that the respondent/debtor has not complied with the order passed in the above CCP filed by them.

2. In the reply of the respondent, it is contended that the petition is not maintainable and the order of refund passed by this Forum is without jurisdiction in view of the decision in Newtech Promoters and developers Pvt.Ltd. Vs State of UP and others passed by the Hon'ble Supreme Court and

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the project has already reached completion stage and will be ready for handover in a couple of months and as per the terms of the construction agreement, compensation is payable by the respondent to the complainants till the date of handing over possession of the villa and the claim of refund for the villa which is ready for handing over is unjustifiable and would cause irreparable loss and hardship to the respondent.

3. By order dated 29.10.2021, this Forum directed the respondent to refund the amount paid by the petitioners with interest, compensation and cost within 30 days from the date of issue of the order. The respondent filed counter in the main case raising all the objections and points in the counter filed herein. This Forum passed the final order considering all the points raised by the respondent in the main case. It is well settled law that an executing court cannot go beyond its original order. If aggrieved, it was open for the respondent to prefer appeal before the Appellate Tribunal under the Act. It is not the case of the respondent that they have preferred any appeal challenging the order of this Forum before the Appellate Tribunal. In execution proceeding, this Forum cannot re-open the main case and go beyond the final order passed in the CCP. Therefore, all the contentions raised by the respondent are liable to be rejected.

4. Since the amounts due to the petitioners/order holders 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 send it to the District Collector, Kancheepuram, to collect the same to satisfy the claims under the orders passed in favor of the above petitioner/order holder.

Sd/- 27.05.2022
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.

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27.5.2022.
LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY