

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**
Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,

**S.R.No.133 of 2021
in Unnumbered E.P. No. of 2021 in
CCP No.101 of 2019**

Swami Nadhan Nair ... Applicant/Complainant

Vs.

M/s. Marg Properties Ltd.,
Marg Axis & another ... Respondent/Respondent

Petitioner : Rep. by Mr. Ralph V.Manohar, Advocate.
Respondent : Rep. by Mr. A.C.Kumaragurubaran, Advocate.

**Heard on : 25.11.2021
Delivered on : 24.12.2021**

ORDER

The above applicant/complainant filed the petition for execution under section 40(2) of the RERA Act read with Rule 26 of TNRERA Rules.

2. Since the first execution petition on the order passed in the same complaint was allowed by this Forum and the warrant for recovery was issued and the same is pending execution, the counsels for the petitioner and respondent were heard regarding maintainability of this execution petition.

3. The learned counsel for the petitioner argued elaborately on sections 63, 40(1) and 40(2) of the RERA Act and the rules under the TNRERA Rules and submitted that the execution petition is well maintainable before this Forum. A similar execution petition in E.P.No.13 of 2020 was filed by the same petitioner and by order dated 27.11.2020, this Forum allowed the E.P. and ordered to issue recovery warrant to recover the amount due and the

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execution of the warrant is pending. In this petition, the petitioner seeks to impose penalty under section 40(2) of the RERA Act in accordance with section 63 of the Act on the respondent company and on their failure to pay the penalty and to make a complaint in writing to the Judicial Magistrate to try the offence punishable under section 18(1) of the Act.

4. A reading of section 40(2) of the RERA Act reveals that the section provides for enforcement of the order already passed in case of failure by any person to comply with the order or direction. As such no order has been passed imposing any penalty. Entertaining the second execution petition will amount to vexing the respondent twice over the same issue. The principle is laid down in the legal maxim, Nemo debet bis vexari pro una et eadem causa. It is a rule of law that a man shall not be twice vexed for one and the same cause.

5. Considering all the above, it is held that this execution petition is not maintainable and is liable to be dismissed as not maintainable.

In the result, the petition is dismissed. No cost.

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LAW OFFICER
TN REAL ESTATE REGULATORY AUTHORITY

Sd/- 24.12.2021
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI