

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**
Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,
Execution Petition No. 10 of 2022 in CCP No.148 of 2020

E.L.Leela

.... Petitioner/Order holder

Vs.

1. M/s.Casa Grande Grace Pvt. Ltd.
Rep by its Authorised Signatory, G.Sethupathy
2. M/s.Casa Grande Enterprises LLP,
Rep by their Power Agent,
M/s.Casa Grande Grace Pvt.Ltd.
3. Mrs.Seema,
Rep by her Power Agent,
M/s.Casa Grande Grace Pvt.Ltd. Respondents/Debtors

Petitioner : Rep. by Mr.N.Nandakumar, Advocate

Respondents : Rep. by M/s.Ganesh & Ganesh, Advocates

Heard on : 20.06.2022

Delivered on : 25.07.2022

**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 03.12.2021**

The above petitioner/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 her.

2. In the counter of the respondents, it is contended that the respondents decided to prefer an appeal against the order of this Forum in the main case and instructed their counsel accordingly and the petitioner has filed an interest calculation sheet on payments at nine different intervals and they have not filed any proof to evidence the respective payment dates and the sums as

TRUE COPY
kg
25/7/2022

claimed by her and charge over the property i.e. the flat booked by the complainant was created by this Forum till repayment of the claim, but the petitioner has shown as if the charge or attachment is created on the entire schedule 'A' property and the petition is to be dismissed due to incorrect and false submissions and the entire claim made in the petition is not in consonance with the orders passed. The petitioner was directed to execute cancellation of the agreements and the petitioner has not come forward to execute the same and preferred the petition and therefore the petition is liable to be dismissed.

3. By order dated 03.12.2021, this Forum directed the respondents either jointly or severally, to pay the amounts to the petitioner/order holder with interest, compensation and litigation cost within 30 days from the date of issue of the order. It is not the case of the respondents that they have preferred any appeal against the order of this Forum before the Appellate Tribunal till date. The respondents have disputed the interest working calculation with respect to the payments made to them. When the respondents, as promoter of the project, received the amounts paid by the petitioner and also maintained the accounts of payments made by the allottees including the petitioner in the project, the respondents have not come forward to produce any evidence contradicting the statement of the petitioner.

4. So far as the encumbrance created by charge over the flat booked by the complainant till repayment of claim as per the order is concerned, such a charge was created to safeguard the interest of the petitioner and to prevent the respondents from alienating the booked flat in favour of any third party without any settlement to the petitioner. Therefore, the respondents cannot take advantage on the charge created under the order in the main case. The petitioner is under obligation to execute cancellation of agreements entered

TRUE COPY

leg
25/1/2022

with the respondents only on payment of the entire amount due under the order to her. Therefore all the contentions raised by the respondents are liable to be rejected.

5. Since the amounts 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 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, Kancheepuram, to collect the amount to satisfy the claims under the orders passed in favor of the above petitioner/order holder.

Sd/- 25.07.2022
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.

CERTIFIED TO BE TRUE COPY

N. [Signature]
Administrative Officer