

**BEFORE THE**  
**TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,**  
**CHENNAI**  
**Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,**  
**Execution Petition No.08 of 2022 in CCP No.52 of 2020**

1. Balaji Ramachandran  
2. Popjee Minnie Balaji  
Both rep. by power of attorney agent,  
M.R. Sundararaman ..... **Petitioners/Order Holders**

**Vs.**

1. M/s. Oragadam City Developers Pvt. Ltd.  
Rep. by its Director, Rajmannar Ramasamy  
2. M/s. New Town Housing  
Rep. by its Partner, Rajmannar Ramasamy  
3. M/s. Value Build Homes  
Rep. by its Partner Mr. Rajmannar Ramasamy  
4. M/s. Vilagam Housing  
Rep. by its Partner Mr. Rajmannar Ramasamy  
5. M/s. Frontier Housing Pvt. Ltd.  
Rep. by its Partner Mr. Rajmannar Ramasamy ..... **Respondents/Debtors**

Complainants : Rep. by Mr. A. Karthikeyan, Advocate.  
Respondents : Rep. by Mr. A.V. Arumugam, Advocate.

**Heard on** : 07.12.2022  
**Delivered on** : 28.12.2022

**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 19.11.2021**

The above petitioners/order holders filed the petition for execution stating that the respondents/debtors have not complied with the orders passed in the above CCP filed by them.

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2. In their preliminary and additional objections, the respondents contented as follows:- The respondents preferred appeal before the Hon'ble Appellate Tribunal against the order passed by this Forum and also an application for stay of the order is pending for disposal. The amounts claimed in the execution petition are not correct and legal and suffers from the vice of excessive execution over and above the amount decreed by this Forum. The property sought to be attached is owned by many plot apartments allottees. The petitioners are to confine their claim only with regard to the plot conveyed to them. The EP is to be referred to the civil court in terms of Rule 27 of TNRERA Rules. The procedure under Order 21 of CPC is to be followed. The petitioner seeks attachment of plots owned by other plot owners in violation of law and principles of justice. The petition is not maintainable.

3. By order dated 19.11.2021, this Forum directed the respondents either jointly or severally to pay the complainants the amounts at the interest rate, compensation and cost as per the findings in the order within 30 days from the date of issue of the order. The respondents filed preliminary objections on 25.07.2022 enclosing the copy of the grounds of appeal filed before the Appellate Tribunal and subsequently filed additional objections on 7.12.2022. Till date, the respondents have not produced any order of stay from the Appellate Tribunal. It is also not known whether the appeal preferred by the respondents was numbered and placed before the Hon'ble Appellate Tribunal. It is well settled law that an executing court or forum cannot go beyond its original order. Unless the respondents gets an order of stay of the order of this Forum from the Appellate Tribunal, the execution proceedings cannot be stalled merely on filing of appeal before the Appellate Tribunal.

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4. The respondents contended that the execution proceedings are to be referred to Civil Court in terms of Rule 27 of the TNRERA Rules. Rule 26 prescribes the manner of recovery of interest, penalty and compensation and makes it clear that the recovery of the amount shall be made as an arrear of land revenue under the Tamil Nadu Revenue Recovery Act 1864. Under Rule 27, only in the event of its inability to execute the order, the order is to be referred to Civil Court. Therefore, at present, the question of referring the execution proceedings to civil court does not arise. No documents filed by the respondents to prove that the entire property sought to be attached conveyed to third parties. All the above contentions of the respondents are liable to be rejected.

5. 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.

**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 District to collect the same to satisfy the claims under the order passed in favour of the above petitioners/order holders.

Sd/- 28.12.2022  
G. SARAVANAN  
ADJUDICATING OFFICER  
TNRERA, CHENNAI.

