

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

**Quorum : Mr. Sunil Kumar, I.P.S (Retd), M.A, LLB, Hon'ble Single Member**

**Execution Petition No. 51 of 2023 in CCP No. 95 of 2021**

- 1) V. Bhuvana
- 2) T. Mohan

... Complainants

**Vs.**

M/s. Akshaya Private Limited  
Rep. by its Managing Director

... Respondent

Complainant : Rep. by M/s. Ajay Kumar Gupta, Advocates  
Respondent : Rep. by M/s. Mani Sundargopal, Advocates

**Heard on: 21/11/2023  
Delivered on: 12/04/2024**

**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 14/03/2023**

1. The above complainant filed the petition for execution stating that the respondent has not complied with the order passed in the above CCP filed by them.
2. The respondent has not obtained any stay in any appeal preferred by the respondent before the Appellate Tribunal nor has he paid the amount due to the complainant in compliance of the order of this Forum.
3. In the above CCP, the respondent is directed to pay the complainant, the amount of Rs.58,99,029/- with interest @ 9.30% p.a, for the paid sum of Rs.32,48,899/- till realization and litigation expenses of Rs.25,000 as ordered in CCP No. 95 of 2021 dated 14/03/2023. (i.e. Rs.32,48,899/- with interest at the

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rate of 9.30% p.a from the date of respective payment till 30/06/2023, Rs.26,25,130/- and litigation fee of Rs.25,000/-) (Rs.32,48,899/- + Rs.26,25,130/- + Rs.25,000/- = Rs.58,99,029/-)

4. In the additional counter filed on 14/11/2023, the respondent questions Power of Authority under section 40(1) Rule 26 and 40(2) Rule 27 regarding execution of the order passed by the authority. At the same counter in para 3 it is stated that *"in the event of its inability to execute the order, send such order to the civil court, to execute such order"*. The same facts has been reiterated by the ruling of the Hon'ble Supreme Court judgment rendered in **A.R. Antulay V. Ramdas Srinivas Nayak (1984(2) SCC 500)**

*"where a statute requires to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden."*

5. The above quoted citations is not relevant to the case in hand

6. On considering the above facts in Section 40(1) and 40(2) and Rule 26 and 27, it is specifically stated that in the event of the inability of this authority to execute the order, the same may be sent to the Civil Court for execution.

7. Taking the consideration of the above facts, this authority is executing its power under section 40(1) and 40(2) and Rule 26 and 27.

8. Secondly, the respondent filed additional counter on 21/11/2023 and introduced a new point that the property belongs to some other person. Without impleading the necessary and proper party the execution petition cannot be entertained.

9. Since, the same fact has not been raised by the respondent at the time of trial and a certificate of encumbrance on property for survey no. 44/35 of Perungudi Village, dated 07/08/2023 has been submitted by the

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