



**BEFORE THE TAMIL NADU REAL ESTATE
REGULATORY AUTHORITY (TNRERA)
(Tamil Nadu, Andaman & Nicobar Islands)
at Egmore, Chennai – 600 008**

[Under the Real Estate (Regulation and Development) Act, 2016]

E.P.No.16/2022 in C.No.219/2019

20th day of April, 2023

**Coram : Thiru K. Gnanadesikan, I.A.S. (Retired), Chairperson
Er. S. Manohar, Member
Adv. V. Jeyakumar, Member**

Fifth Estate Communications Pvt. Ltd.]
Represented by its Managing Director] Execution Petitioner/
Thiru Ganesh Baliga] Complainant

Versus

1) M/s. Sabari Realtors Pvt. Ltd.]
Represented by its Resolution Professional] Respondents/
Thiru S. Amarendran] Respondents
2) M/s. Pioneer Homes]

The above Execution Petition came up for final hearing before this Authority in the presence of M/s. S.K.Rahul Vivek – Counsel for Execution Petitioner/Complainant and of M/s. KNS Law Chambers – Counsel for the 1st Respondent and the 2nd Respondent represented by Counsel Mr.K.Pradeep Raj. This Authority passes the following order:

ORDER

The Execution Petitioner has filed this Petition for non compliance by the Respondent Promoter in terms of the orders of this Authority passed on 04.09.2019 in Complaint No.219 of 2019.

2. The prayers of the Execution Petitioner in this Execution Petition are as follows:

- i. To hand over Flat No.601 in the 6th Floor in Margosa Tower having a built up area of 993.43 sq.ft. with one covered car park together with an undivided share of land measuring 348.96 sq.ft. out of total extent of 344842 sq.ft. comprised in S.No.29/1, 27/1, 26/2, 29/1, 27/3, 26/1, 27/2, 28, 25/1A and 25/1B situated in Siruseri Village, Chengalpattu Taluk (now Thirupporur Taluk, Kancheepuram District).
- ii. To hand over Flat No.906 in the 9th floor in Margosa Tower having a built up area of 1368.44 sq.ft. with one covered car park together with an undivided share of land measuring 480.69 sq.ft. out of total extent of 344842 sq.ft. comprised in S.No.29/1, 27/1, 26/2, 29/1, 27/3, 26/1, 27/2, 28, 25/1A and 25/1B situated in Siruseri Village, Chengalpattu Taluk (now Thirupporur Taluk, Kancheepuram District) after completing the construction in all respects.
- iii. To register the project under RERA as an ongoing project.

3. In the Compliance Affidavit filed on behalf of the 1st Respondent Promoter M/s. Sabari Realtors Pvt. Ltd., the Resolution Professional Thiru S.Amarendran has submitted that he is the Resolution Professional of

the Promoter Company herein having been appointed by the Hon'ble National Company Law Tribunal, Chennai Bench by way of order dated 15.06.2020 passed in IBA/471/2019.

4. The Resolution Professional has further submitted that he had submitted an application seeking approval of Resolution Plan numbered as IA 250 of 2020 in IBA 471 of 2019 which is now pending before the Hon'ble National Company Law Tribunal for approval. The Resolution plan addresses completion of unfinished apartments including that of the Complainant. Also it is pointed out by the Resolution Professional that the Complainant had filed claims in the Promoter company's insolvency proceeding and also participated in the process of approval of this Resolution plan. The resolution plan includes a specific undertaking with respect to registration under RERA by the Resolution Applicant.

5. In the Counter Affidavit filed on behalf of the 2nd Respondent it is submitted by the 2nd Respondent that it is neither a necessary party nor a proper party to the present proceedings. It is also submitted by the 2nd Respondent that the 1st Respondent is the Promoter and it has only developed the project and entered into agreements with the land owners for developing the property. The 2nd Respondent is only a financial partner who granted loan to the 1st Respondent. The 2nd Respondent has also submitted that the 1st Respondent has failed to make the payment and the 2nd Respondent has filed its claim for Rs.4.50 crores before the Resolution Professional of the 1st Respondent. In such circumstances the Execution Petition filed as against the 2nd Respondent is not maintainable.

6. This Authority has examined the Execution Petition, the Compliance Affidavit filed by the Resolution Professional and the Counter Affidavit filed by the 2nd Respondent, carefully.

7. The Resolution Professional has clearly indicated that the resolution plan submitted before the Hon'ble NCLT addresses the completion of unfinished apartments including that of the Complainant and the resolution plan also includes a specific undertaking in respect of registration under RERA by the Resolution Applicant.

8. In view of the above submissions made by the Resolution Professional, this Authority holds that the Execution Petitioner shall await the orders of the Hon'ble NCLT on the resolution plan.

9. This Execution petition is disposed of accordingly with liberty to the Execution Petitioner/Complainant Allottee to move this Authority at the appropriate time after orders are passed by the Hon'ble NCLT and a new promoter is in place for completion of the unfinished apartments including that of the Execution Petitioner.

Sd/-...20.04.2023

MEMBER (M), TNRERA

Sd/-...20.04.2023

MEMBER (J), TNRERA

Sd/-...20.04.2023

CHAIRPERSON, TNRERA

/TRUE COPY/FORWARDED/BY ORDER

ADMINISTRATIVE OFFICER.

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20.4.23

N. [Signature]
20/4/2023