

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

Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,

Unnumbered E.A.S.R Nos.76,77 and 78 of 2023

In

E.P. Nos.49 to 70 of 2021 (Common Order dated 10.02.2022)

In

**CCP Nos. 273, 274, 275, 276, 277, 278, 292, 320, 321, 322, 323, 324, 325,
326, 337, 338, 339, 340 of 2019, CCP Nos. 4, 6, 13 of 2020**

1. G. Nalini
2. B. Govindaraj
3. G. Dineshkumar
4. M. Sakthivel

.... Petitioners / III Party

Vs.

- | | |
|---------------------|-----------------------------------|
| 1. P. Soundararajan | E.P.No.49 of 2021 CCP No.108/2019 |
| 2. V. Umamathy | E.P.No.50 of 2021 CCP No.273/2019 |
| 3. S. Sureshkumar | E.P.No.51 of 2021 CCP No.275/2019 |
| 4. S. Thanumalayan | E.P.No.52 of 2021 CCP No.274/2019 |
| 5. R. Ramesh | E.P.No.53 of 2021 CCP No.276/2019 |
| 6. B. Hemamaalini | E.P.No.54 of 2021 CCP No.277/2019 |
| 7. P. Sujatha | E.P.No.55 of 2021 CCP No.278/2019 |
| 8. P. Soundararajan | E.P.No.56 of 2021 CCP No.292/2019 |
| 9. S. Pandurangan | E.P.No.57 of 2021 CCP No.320/2019 |
| 10. P. Swaminathan | E.P.No.58 of 2021 CCP No.321/2019 |
| 11. S. Ponni | E.P.No.59 of 2021 CCP No.322/2019 |
| 12. S. Aravindan | E.P.No.60 of 2021 CCP No.323/2019 |
| 13. K. Annadurai | E.P.No.61 of 2021 CCP No.324/2019 |
| 14. P. Chandresan | E.P.No.62 of 2021 CCP No.325/2019 |
| 15. A. Srinivasan | E.P.No.63 of 2021 CCP No.326/2019 |
| 16. M. Prasath | E.P.No.64 of 2021 CCP No.337/2019 |

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17. A. Arulmozhi	E.P.No.65 of 2021 CCP No.338/2019
18. M. Rajashekar	E.P.No.66 of 2021 CCP No.339/2019
19. M. Rajashekar	E.P.No.67 of 2021 CCP No.340/2019
20. T. Ganesan	E.P.No.68 of 2021 CCP No.04/2020
21. S. Govindarajan	
Rep. by PoA, S. Seenivasan	E.P.No.69 of 2021 CCP No.06/2020
22. S. Vijayalakshmi	E.P.No.70 of 2021 CCP No.13/2020

..... Respondents/Petitioners in E.P. 49 to 70 of 2021 & Complainants in the CCPs.

23. M/s. RVS Developers Pvt. Ltd.
Rep. by its Director, Senthil Azhagan

..... Respondent/Respondent/Respdt.

Petitioners : Rep. by Ms. S. Sridevi , Advocate.

Heard on : 05.04.2023

Delivered on : 24.04.2023

1. The execution applications are filed by the petitioners / III party under sections 35 to 38 of the Real Estate (Regulation and Development) Act,2016 (shortly called as RERA Act) and Rule 32 of the TNRERA (General) Regulations, 2018 seeking to recall or set-aside the common attachment order dated 10.02.2022 and consequent warrants issued over the property and to grant interim stay of all further proceedings and to grant leave to the petitions to intervene in the proceedings in the execution petitions.

2. **Averments of the petitioners, in brief, as follows:**

The affidavit of the second petitioner is filed in support of all the applications. The petitioners are aggrieved by the orders in the above execution petitions in pursuance of which the lands belonging to the petitioners are

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attached and sold to discharge the order passed in the above execution petitions. The petitioners, as the owners of the properties and also in their capacity as power agents with the right to sell the property, entered into an agreement of sale with the promoter, namely, M/s. RVS Developers Private Limited, the 23rd respondent. The petitioners also executed the general power of attorney in favor of the 23rd respondent. The 23rd respondent entered into memorandums of agreements with the other respondents without any authority. The 23rd respondent was not given power or authority over and above the lands in S.No.391/1 of the property. The 23rd respondent has paid to the petitioners, in total, a sum of Rs.13,45,20,000/-. The entire sale amount was not paid to the petitioners. The 23rd respondent has no authority to deal with the properties in S.Nos.123 and 385 of the property. However, the orders passed in the above CCPs and the common order passed in EP Nos. 49 to 70 of 2021 by this Forum take away the entire property. In pursuance of the orders of this Forum, the revenue officials are visiting the properties and the properties of the petitioners will be subjected to sale proceedings. Hence the above petitions are filed.

3. The point, which arises for consideration, is:

Whether the above execution applications are maintainable before this Forum?

4. **Answer for the point :**

(a). The learned counsel for the petitioners submitted that the petitions are filed under Sections 35 to 38 of the RERA Act read with Rule 32 of the TN Real Estate Regulatory Authority (General) Regulations, 2018 and Sections 35 to 38 envisage powers for the RERA to hold investigations and also to grant interim orders and issue necessary directions and to adjudicate the matter and

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the rule provides for invoking inherent power of the Authority and therefore as a third party and the person aggrieved, the petitioners filed the execution applications to prevent abuse of power and there was gross illegalities and if the revenue officials are allowed to proceed, it would cause irreparable loss and irretrievable injuries to the petitioners and the petitions are maintainable before this Forum.

(b). On perusal of the records, it is seen that the complaints under section 31 read with section 71 of the RERA Act were filed before this Forum by the respondents Nos. 1 to 22 as "allottees" in relation to the real estate project of the respondent No.23, the promoter and the complaints were adjudicated and orders were passed granting reliefs to the respondents Nos.1 to 22. Since the respondent No.23, the promoter failed to comply with the orders of this Forum passed in the complaints in the above CCPs, the respondents Nos.1 to 22 filed execution petitions (EPs) in which this Forum passed orders for recovery of the amounts as per the orders by issuing recovery warrants. This Forum of Adjudicating Officer exercised the power under section 71 to adjudicate compensation under Sections 12, 14, 18 and Section 19 of the RERA Act and passed the final orders in the complaints filed by them and subsequently since the orders were not complied with by the respondent No.23, this Forum ordered for issue of recovery warrants.

(c). The present execution applications are filed under sections 35 to 38 of the RERA Act. Sections 35 to 38 deal with the powers of the Authority to call for information and conduct investigations, to issue interim orders and to issue directions and also to impose penalty or interest. As per section 2 (i) of the RERA Act, "Authority" means the Real Estate Regulatory Authority established under

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sub-section (1) of section 20. As per section 2 (a), "adjudicating officer" means the adjudicating officer appointed under sub-section (1) of section 71. This Forum of Adjudicating Officer exercised power to adjudicate the complaints only as per the section 71 of the RERA Act and cannot exercise powers under the sections 35 to 38 of the RERA Act. The learned counsel also relied on the Rule 32 of the TNRERA (General) Regulations, 2018 which deals with the saving of inherent power of the Authority. It is clear that the Adjudicating Officer has no power to issue any orders under the above rule of the TNRERA Regulations.

(d). The Adjudicating Officer has no power to go beyond the orders passed in the above complaints and the execution petitions and to review or recall the orders already passed. There is no provision under the RERA Act giving any power to such acts.

(e). Considering all the above facts and circumstances and the legal position, it is held that the above execution applications are not maintainable before this Forum of Adjudicating Officer and are liable to be dismissed as not sustainable.

In the result, the execution applications are dismissed.

**G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI.**

