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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:30.10.2026	Pronounced on:16.10.2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

CRP. No.5009 of 2026
and CMP. No.21824 of 2026

M/s.SPR Construction Private Limited,
Project: SPR City "MARKET OF INDIA"--
A Project with Binny Limited,
Represented by its Authorised Signatory
Mr.S.Kishore Kumar Kawad,
having registered office at,
No.57, Narayana Mudali Street, ..Petitioner
Sowcarpet, Chennai - 600 079.

Vs

Mrs.Silambuselvi K
Wife of Mr.Murugavalavan,
Residing at H 2-1, Ruby Grand Apartments,
Agaram Main Road, Thiruvancherry,
Kanchipuram - 600 126. ..Respondent

PRAYER: This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to the decreetal order dated 28.01.2026 passed in CCP. No.39 of 2025, on the file of the learned Adjudicating Officer, Tamil Nadu Real Estate Regulatory Authority, Chennai and set aside the said order insofar as it grants compensation of Rs.5,00,000/- and costs of Rs.50,000/- to the respondent, as being contrary to the statutory scheme under Sections 18, 71 and 72 of the Real Estate (Regulation and Development) Act, 2016 and as constituting and exercise of jurisdiction beyond the authority conferred under the Act.

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For Petitioner(s): Mr.P.S.Raman,
Senior Counsel for
Mr.Gaurav Chatterjee

For Respondent(s): Mr.R.Prithviraj Pandiyan

COMMON ORDER

The respondent before the Tamil Nadu Real Estate Regulatory Authority is the revision petitioner, aggrieved by the order of the Adjudicating Officer dated 28.01.2026 in CCP No. 39 of 2025.

2. Base/ Ground Facts:

The respondent, as complainant, filed a complaint before the Authority under Section 31 read with Section 71 of the Real Estate (Regulation and Development) Act, 2016, (hereinafter referred to as "RERA"), seeking compensation of Rs. 10,00,000 for alleged mental agony and loss suffered by him and also for costs of Rs. 50,000/-.

3. The grievance of the complainant is that the respondent promoted a multi-use integrated township, consisting of multi-story residential buildings, villas, town houses, school, commercial space, shopping centres, wholesale markets, etc., According to the complainant, the revision petitioner had

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undertaken to develop Phase-I of the commercial scheme and had earmarked 11.74 acres for such purpose. The said Phase-I was comprised of 5 zones and the project was also registered with TN RERA.

4. The further case of the complainant is that, the complainant entered into a sale agreement with the revision petitioner on 27.08.2019, for purchase of 38 sq.ft. of undivided share proportionate to Unit D-202, situated in lower ground floor of "PARRYS MARKET", which in turn is situated in Market of India-Phase-I. For the purposes of construction of the unit, a construction agreement was also entered into and the complainant was entitled to 2 numbers of two-wheeler parkings. The complainant also contends that, out of the agreed consideration of Rs. 32,16,831/-, he has already paid Rs. 28,58,935/-, which is approximately 90% of the total consideration. Despite such huge payments, according to the complainant, the revision petitioner did not even update the complainant about the progress of construction of the unit. The main grievance of the complainant is that, in terms of the construction agreement, the possession of the constructed unit should have been handed over to him by June 2022 itself with a grace period of further 6 months. However, the revision petitioner, according to the complainant, has committed default in complying with the said undertaking to handover possession and has not been in a position to complete

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the construction and thereby has caused untold mental agony and loss to the complainant.

5. The said complaint was resisted by the revision petitioner, admitting the agreements between the revision petitioner and the complainant and also the payments made by the respondent/ complainant. It is however contended by the respondent that the construction was delayed on account of multifarious factors namely water crisis, Covid-19 pandemic, rising costs of construction and labour supply. Though, the revision petitioner admits to the fact that they had undertaken to handover the unit by end of 2022, the same has not been possible for reasons beyond their control and in any event the petitioner is taking all necessary efforts to complete the construction and handover possession to all allottees, including the respondent/ complainant. Both, the revision petitioner as respondent and the respondent as complainant herein, filed their proof affidavits. On the side of respondent/ complainant, he examined himself as CW-1 and marked Exhibits A1-A7 and on the side of revision petitioner, one witness RW-1 was examined and Exhibits P1 and P2 were marked.

6. The Adjudicating Officer, referring to the promotional brochures of the revision petitioner's project "Market of India" and also the agreements of sale

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and construction entered into between the petitioner and respondent, with specific reference to Clause 4 in Exhibit A5, construction agreement, regarding the period of completion and handing over of possession, found that the promoter, latest by December 2022, ought to have put the complainant in possession of Unit D-202. The Adjudicating Officer has also rejected the reasons and excuses assigned by the revision petitioner with regard to the non-availability of cement, sand, etc., and has also found that there has been no natural disaster, warranting invocation of force majeure condition in the facts and circumstances of the present case. The Adjudicating Officer also found that nearly 90% of the consideration amount has already been paid and referring to the emails exchanged between the revision petitioner and the respondent, the Adjudicating Officer rendered a finding that the revision petitioner is liable to pay compensation to the respondent/ complainant, until handing over of the unit. In this regard, Clause 5 of Exhibit A5 construction agreement was referred to by the Adjudicating Officer. Ultimately, the Adjudicating Officer directed the revision petitioner to pay a compensation of Rs. 5,00,000/- to the respondent/ complainant for delay and mental agony, besides costs of Rs. 50,000/-.

7. I have heard Mr.P.S.Raman, learned Senior Counsel, for Mr.Gaurav Chatterjee, learned counsel for revision petitioner and Mr.R.Prithviraj Pandian,

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learned counsel for the respondent/complainant.

8. Mr.P.S.Raman, learned Senior Counsel, fairly admitted at the very outset that the revision petitioner has not been in a position to honour its commitment to the respondent/ complainant by completing the construction and handing over position of the unit by the agreed date, despite taking advantage of the grace period. However, at the same time it is his submission that the entitlement of the complainant to compensation, in the event of delay, cannot be invoked by the respondent/ complainant, in view of the express covenants agreed to, by the parties. In this regard, he invites my attention to the relevant clauses in the construction agreement. He also brings to my notice that a separate application is pending for payment of interest to which, the Petitioner has filed detailed objections and therefore contended that even the claim for interest cannot be fastened on the petitioner, in terms of the agreement. In any event, in this revision I am not required to go into the entitlement of the respondent to interest, since admittedly the parties are battling it out in separate proceedings. However, in the light of the agreement between the parties, it is the specific and primordial submission of Mr.P.S.Raman, learned Senior Counsel, that under Section 18 of RERA, the petitioner cannot claim any compensation, much less for mental agony, when the complainant does not opt to walk out of the project, but intends

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to continue. It is also the submission of Mr.P.S.Raman, learned Senior Counsel, that it is not as if the delay has caused any loss to the respondent/ complainant as the real estate prices in and around the locality have increased multi-fold and for instance, he stated that the rate at which the unit was sold to the respondent/ complainant, is not the current rate at which the units are being sold, but for much higher consideration. Therefore, he contends that the delay has only benefitted the respondent/ complainant and has not adversely affected his interest in any manner.

9. Per contra, Mr. Prithviraj Pandian, learned counsel for the respondent, at the outset, would submit that the revision under Article 227 of the Constitution of India itself is not maintainable since, as against the order of the Adjudicating Officer, an appeal remedy is available under the RERA and therefore, when there is an effective and efficacious alternate remedy, available under the statue itself, then this Court, should not entertain the revision filed under Article 227 of the Constitution of India, exercising any extraordinary jurisdiction that is available to it. Without prejudice to the maintainability of the revision, learned counsel for the respondent, Mr. Prithviraj Pandian, meets the arguments of the learned Senior Counsel, Mr.P.S.Raman, contending that Section 18(1) cannot be read in isolation and has to be read along with other sections in the statute, namely Sections 12,

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14 and 19. He would therefore state that there is no error committed by the Adjudicating Officer, warranting interference in revision.

10. In reply, meeting the objections of the counsel for respondent with regard to the maintainability of the revision, Mr.P.S.Raman, learned senior counsel, would state that the Adjudicating Officer has committed a jurisdictional error which can certainly be corrected by this Court in exercise of Article 227 of the Constitution of India and therefore, he would contend that the revision is very well maintainable.

11. I have carefully considered the submissions advanced by the learned senior counsel for the petitioner and learned counsel for the respondent. I have also gone through the documents filed in support of the revision petition by way of typed set of papers and also the decision in *Nandi Infrastructure Corridor Enterprises Ltd. and Another vs. B Gurappa Naidu and others,* reported in *2026 LiveLaw (SC) 445*. Before going into the merits and demerits of the revision petition, I will first decide the issue of maintainability since the counsel for the respondent has vehemently attacked the very maintainability of the revision petition in view of an appeal remedy being available under RERA. There is no dispute that, as against the order of the Adjudicating Officer, an appeal remedy is

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available under the Real Estate (Regulation and Development) Act, 2016. Under Section 33 of the Act, such an appeal is permissible to be filed against any order or direction or decision made by RERA or an Adjudicating Officer under the Act, within a period of 60 days. However, the Appellate Tribunal has the power to condone the delay beyond 60 days, provided, sufficient cause is shown for not filing the appeal within 60 days. Therefore, there is no second opinion that the under the statute, the impugned order is also appealable. However, it is to be seen whether the revision petitioner can bypass the appeal remedy and approach this court under Article 227 of the Constitution of India, for special reasons shown and established.

12. In this regard, it is the submission of Mr.P.S.Raman, learned senior counsel, referring to Section 18 that the power of the Adjudicating Officer to award compensation is not available under the statute, when the complainant does not opt out of the project and therefore, since the Adjudicating Officer has passed the impugned order in excess of jurisdiction available to him, this Court can certainly interfere under Article 227 of the Constitution of India. The Hon'ble Supreme Court in *Geeta Bai and Others vs. K. Arjun Singh and Others,* reported in *2026 LiveLaw (SC) 1004*, has held that an aggrieved party can approach the High Court under Articles 226 or 227 of the Constitution of India when there is

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gross injustice or perversity in the order or even failure to exercise jurisdiction vested in the Court or exercise of jurisdiction not available to the Court or Tribunal.

13. In such circumstances, I deem it necessary to test the order passed by the Adjudicating Officer under Section 18 of the Act. Section 18 specifically deals with return of amount and compensation. For easy reference the Section is extracted hereinunder:

*"**18. Return of amount and compensation.-***

(1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,-

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason,

he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.

(2) The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is

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being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this sub-section shall not be barred by limitation provided under any law for the time being in force.

(3) If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act."

In the present case, Section 18 is certainly attracted for the simple reason that the revision petitioner has failed to complete the construction and has been unable to give possession of the unit, agreed to be constructed, in terms of the agreement between the petitioner and the respondent, by the dates specified in the agreement.

14. Section 18(1) entitles the allottee, the respondent in the present case, on demand, if he wishes to withdraw from the project, without prejudice to any other remedy available to him, in which event the promoter has to return the amount received by him from the allottee, together with interest at such rate as may be prescribed in this behalf, including compensation in the manner as provided as under this Act. This Section 18(1) is heavily relied on by the learned counsel for the respondent. However, the proviso to Section 18(1) assumes significance. It deals with a scenario where an allottee, like the respondent herein,

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does not intend to withdraw from the project. Then, in terms of proviso to Section 18(1), the respondent is only entitled to interest for every month of delay, till the handing over of possession, at such rate of interest as may be prescribed. Therefore, I see a dichotomy even in Section 18 carving out two different classes of cases, one where the allottee seeks to opt out of the project on account of the default committed by the promoter to complete the construction as promised and handover possession within the stipulated time, in which case the statute clearly entitles the allotee to seek for compensation and return of all amounts paid by him towards sale consideration/ purchase money, together with interest. However, as seen from the proviso, a second category is carved out, specifically dealing with cases where the allottee wants to continue to hold the apartment and does not intend to withdraw from the project. In such cases, in terms of the proviso, the allottee is entitled only to interest for every month of delay. The Legislature has consciously omitted "compensation" in the proviso, though “compensation” has been incorporated in the body of S. 18(1).

15. Thus, this is a case where the Adjudicating Officer has exercised jurisdiction not vested in him and when the respondent/ allottee has admittedly not chosen to withdraw from the project, then the respondent is not entitled to any compensation, but only to interest for every month of delay, till the date of

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handing over the possession. Admittedly an application in this regard is already pending enquiry and therefore, it is for the petitioner and respondent to work out their respective claims and contentions in the said application with regard to the entitlement of the respondent and the liability of the petitioner to pay interest for the delayed period. As regards compensation, since the proviso kicks in, in the light of the respondent not opting out, the Adjudicating Officer is not empowered to order payment of any compensation. Therefore, the Adjudicating Officer has assumed jurisdiction which is not vested with him under the Act. In such circumstances, as held by the Hon'ble Supreme Court, this Court can certainly interfere under Article 227 of the Constitution of India, without driving the aggrieved party to file a statutory appeal. In such view of the matter, I do not see how the revision should not be entertained. The argument of the learned counsel for the respondents, therefore, cannot be countenanced and I hold that the revision petition is maintainable. In fact, very recently the Hon'ble Supreme Court in *Nandi Infrastructure's case* (referred herein supra), has discussed the scope of supervisory jurisdiction under Article 227 of the Constitution of India and held that though the High Court cannot act as a Court of first appeal and re-appreciate the facts and evidence, supervisory jurisdiction can be exercised to set right the dereliction of duty, flagrant abuse or patent errors of law. This is a case where I have already held that there is a clear perverse and patent error committed by the

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Adjudicating Officer, by exercising a right which is not even conferred by the statute. Therefore, I hold that the civil revision petition is maintainable.

16. Having already held that the power of the Adjudicating Officer to award compensation in certain scenarios and award interest alone for the delay caused in certain other scenarios, the only question that now remains is as to whether reference to the other Sections that has been argued by the counsel for the respondent, would have an impact on the order of the Adjudicating Officer. The learned counsel for respondent also invited my attention to Sections 12, 14, 19 and as well as 71 to reinforce his argument that even under Section 18, even though the allottee does not opt out of the project, he can still be entitled to claim compensation. I should therefore now test the applicability of these sections and relevance of the same, to the facts on hand.

17. Under Section 12 of the Act, a promoter has an obligation regarding the veracity of any advertisement, cost or prospectus issued by the promoter and it further enables any person who makes an advance or a deposit on the basis of the information contained in the said advertisement or prospectus who sustains loss or damage by reason of incorrect or false statement included therein, then such aggrieved person is entitled to be compensated by the promoter. At the

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outset, the proviso to Section 12, specifically sets out that if the affected person, because of the incorrect or false statement contained in the notice or advertisement or prospectus, intends to withdraw from the proposed project then he shall be entitled to withdraw, being entitled to the entire investment along with interest at such rate as may be prescribed and compensation in the manner provided under the Act.

18. Section 12 is restricted to cases where there is a false or incorrect statement made in the prospectus or advertisement published or passed by the promoter. In such cases, similar to Section 18, a proviso is incorporated under Section 12. It enables the person intending to opt out of the project to return of his entire investment along with interest and compensation. Therefore, I do not see any inconsistency between the provisos to Section 12 and Section 18. Consciously, the law makers have given the additional entitlement of compensation to cases where persons opt out of the project. When proviso to section 18 specifically excludes payment of compensation, but only limits the liability of the promoter for payment of interest for delay, I do not see how the reference to compensation under Section 12 proviso will in any manner further the case of the respondent/ complainant.

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19. Coming to Section 14, this section deals with the requirement of the promoter to adhere to the sanctioned plan and project specifications. In the present case, I do not see any allegations made by the respondent that the revision petitioner has not adhered to such sanctioned plan or project specifications, by commissions of any additions or alterations to such plan and specifications. Therefore, the compensation on account of structural defects in workmanship, quality or provision of services or other obligations of the promoter as per the agreement of sale relating to development within a period of 5 years from the date of handing over possession and despite the same, the promoter failing to rectify the defects, entitling the aggrieved allottee to compensation as provided under the Act, again, does not bear any relevance in the present case.

20. Section 19 deals with rights and duties of allottees and under Section 19(4), the allottee is entitled to claim refund of amount paid along with interest and compensation from the promoter, if the promoter fails to comply or is unable to give possession of the apartment, plot or building, as the case may be, in accordance with the terms of agreement of sale, due to discontinuance of business as a developer, on account of suspension or revocation of his registration. This section, again, cannot be taken advantage of by the allottee, since this is not a case where the project has been abandoned by the developer, which gives rise to

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a cause of action for the allottee to invoke Section 19(4).

21. Lastly coming to Section 71, the power to adjudicate compensation under Sections 12, 14, 18 and 19 are conferred on the Adjudicating Officer to be appointed by the Authority, in consultation with the appropriate Government and the Adjudicating Officer has to decide the compensation claims under Sections 12, 14, 18 and 19 within prescribed time periods. This section is general in nature, referring to the power of the Adjudicating Officer to award compensation under Sections 12, 14, 18 and 19. I have already discussed herein above as to how Sections 12, 14 and 19 will not come into play. Only Section 18, if at all, can be attracted and compensation be imposed upon the revision petitioner. But here again, compensation in terms of the proviso can be awarded by the Adjudicating Officer only when the respondent/ complainant has opted out of the project. Therefore, when admittedly, the respondent has clearly indicated his willingness to continue and wait for the completion of the construction and handing over of the unit to him, in terms of the original agreement, the respondent, at best, is entitled only to interest and not for any compensation. Therefore, the impugned order, for all the above reasons, is liable to be set aside.

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22. In fine, this Civil Revision Petition is ***allowed***. Consequently, connected Miscellaneous Petition is also closed. However, there shall be no order as to costs.

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Index: Yes
Speaking order
Neutral Citation: Yes
RKP

To

The Adjudicating Officer, Tamil Nadu Real Estate Regulatory Authority, Chennai

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P.B.BALAJI, J.

RKP

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