BEFORE THE TAMIL NADU REAL ESTATE APPELLATE TRIBUNAL (TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Islands)

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

Reserved on: 07.10.2026

Delivered on: 14.10.2026

Coram : Hon'ble Mr.Justice M.Duraiswamy, Chairperson
Mr.K.Babu, Judicial Member

Appeal No.100 of 2026
and
M.A.No.242 of 2026

M/s.Newry Properties Private Limited
rep. by its Director,
Sanjeev Gopalakrishnan ... Appellant

Vs.

1. V.S.Eswara Krishnan
   rep. by POA Visweswaran

2. V.S.Visweswaran ... Respondents

Appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 to (a) allow the appeal and set aside the final order dated 22.06.2026 passed by the Tamil Nadu Real Estate Regulatory Authority in C.No.11 of 2025; (b) set aside the direction requiring the appellant to comply with the CMDA Form-IV Notice within three months and (c) set aside the direction directing payment of Rs.25,000/- towards legal expenses.

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For Appellant : Dr.S.Padma
For Respondents : Mr.C.Arun Kumaresan

ORDER

Challenging the order passed in C.No.11 of 2025 dated 22.06.2026 on the file of the TNRERA, the promoter has filed the above appeal. The respondents were the complainants before the TNRERA.

2. The brief case of the complainants is as follows:

(i) The case of the complainants is that the respondent Company incorporated under Companies Act, 1956 under the name M/s.Newry Properties Private Limited was engaged in the construction business as a promoter. They obtained sanction for the project from CMDA vide P.P.No.B/SPL-BLDG/Site Approval/03/2014 dated 30.09.2014, Planning permit No.B/SPL-BLDG/248 A to F/2016 and Building Permit No.CEBA/WDCN14/00335/2016 dated 29.12.2016 from the Corporation of Chennai for the development of a building complex in Schedule-A. The project was registered under the provisions of the TNRERA under Registration No.TN/1/Building/0001/2017 dated 31.07.2017.

(ii) The complainants approached the promoter for a commercial space in the project "Newry Shanmita" and the promoter agreed to construct and allot a commercial space consisting of ground and first floor bearing Unit No.A having carpet

area of 218.227 sq. m. [2,349 sq. ft.] and super built-up area of 244 sq. m. [2,631 sq. ft.] inclusive of proportionate share in common area and commercial/departmental/retail store cum amenity Block together with three reserved open car parks in Block-5.

(iii) The complainants and the promoter entered into a registered Construction Agreement dated 07.02.2020 with respect to Block-5 consisting of ground plus two floors in which the ground and first floors shall be commercial/departmental/retail area and the second floor and terrace above the second floor comprised of the amenities/facilities for residential area.

(iv)The promoter had obtained the Completion Certificate from Chennai Metropolitan Development Authority C.C.No.EC/South-II/38/2019 dated 04.02.2019. The complainants believed that the promoter had developed and completed the said project in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities.

(v) On the basis of a complaint regarding unauthorized construction within the residential premises of "Newry Shanmita", the CMDA had issued a Form-II Notice for Inspection on 23.08.2024. Subsequently, Form-IV Notice for compliance of the planning permission issued on 08.01.2025 addressing the unauthorized development carried out

in contravention of the approved planning permission received by the complainants on 21.01.2025.

(vi) The violations and deviations in the on-site construction were communicated to the promoter through registered post on 01.02.2025. Since no action was taken by the promoter, the complaint has been filed before the TNRERA claiming various reliefs.

3. The brief case of the promoter is as follows:

(i) The entire project, "Newry Shanmita" had been developed strictly in accordance with all statutory approvals, which includes CMDA site Approval No.B/SPL/BLDG/Site Approval/03/2014 dated 30.09.2014, CMDA Planning Permit No.B/SPL-BLDG/248 A to F/2016 and Corporation of Chennai Building Permit No.CEBA/WDCN14/00335/2016 dated 29.12.2016. The project had also been duly registered under TNRERA Registration No.TN/1/Building/0001/2017 dated 31.07.2017.

(ii) The present complaint is not maintainable before the Authority as the reliefs sought pertains to the notice issued by the Chennai Metropolitan Development Authority (CMDA), which is a statutory planning Authority under the Tamil Nadu Town and Country Planning Act, 1971. The Authority, constituted under the Real Estate (Regulation and Development) Act, 2016 does not have the jurisdiction to entertain or

adjudicate upon the decisions/orders passed by CMDA or any other statutory planning authorities. The Authority does not have the power to:

a. Review, stay or modify orders or letters issued by the CMDA or any other urban development authority;
b. Interfere with planning permissions, land use classifications or layout sanctions granted by such authorities.

(iii) The Town and Country Planning Act, 1971 provides its own hierarchy of remedies, including appeals against actions of planning authorities. The complainants cannot bypass such remedies and invoke the jurisdiction of the TNRERA as an alternative or parallel forum.

(iv) The jurisdiction of the TNRERA is confined only to the regulatory frame work created by the RERA Act. The relief prayed directly targets a statutory notice issued by the CMDA, which is wholly alien to the scheme and object of Section 31. The commercial Units A and B were handed over more than 5 years ago and no objection were raised during or immediately after possession. The complainants' silence for such a long period amounts to waiver and acquiescence. The construction and sale of the commercial properties, including Units A and B, have been undertaken in accordance with applicable approvals and statutory permissions obtained at relevant stages.

(v) The prayer sought for by the complainants to direct the promoter to obtain revised approval falls squarely within the domain of CMDA subject to statutory discretion

and regulatory scrutiny under the Town and Country Planning Act, 1971 and it cannot be mandated or supervised by the TNRERA.

(vi) The complaint is liable to be dismissed for non-joinder of necessary party, namely, the CMDA. There is no deviation or violation by the promoter and the project was developed strictly in accordance with law. The Completion Certificate was issued by the Planning Authority on 04.02.2019 after verifying the fact that the construction had been completed in accordance with the sanctioned plans and applicable development control norms. The Completion Certificate issued by the CMDA was neither cancelled/revoked nor set aside by any competent Authority or Court of law. The complainants failed to disclose the fact of longstanding possession and enjoyment and suppressed the material facts relating to acceptance of completion and hand over without impleading CMDA despite seeking reliefs against the Authority. According to the promoter, the complaint is vexatious and abuse of process of law and is liable to be dismissed.

4. The TNRERA, taking into consideration the case of both parties, passed an order directing the promoter to comply with the directions issued by the CMDA in Form-IV Notice for retaining the usage as per the approved plan within a period of 3 months. Aggrieved over the same, the promoter had filed the present appeal.

5. It is not in dispute that the complainants approached the promoter for a commercial space in the project and the promoter agreed to construct and allot a

commercial space consisting of ground and first floors bearing Unit No.A measuring an extent of 218.227 sq. m. [2,349 sq. ft.] and super built-up area 244 sq. m. [2,631 sq. ft.] inclusive of proportionate share in common area and as per the statement of Architect in Block-5, commercial/departments/retail store cum amenity Block together with 3 reserved open car parks in the building complex.

6. According to the learned counsel appearing for the appellant, the complaint had been filed by the complainants before the TNRERA after receiving Form-IV Notice from the CMDA on the ground that the promoter had constructed the building in violation and deviation of the approved plan. The TNRERA, by an order dated 22.06.2026, directed the appellant/promoter to comply with the CMDA's Form-IV Notice within 3 months and to pay Rs.25,000/- towards legal expenses. The said impugned order passed by the TNRERA erroneously treated the Form-IV Notice as conclusive and directed the appellant/promoter to comply with the directions issued by the CMDA falling within the jurisdiction of competent planning authority. The said Form-IV Notice was not issued to the appellant/promoter and the CMDA directed the complainants, President, Secretary and Treasurer of the Association to comply with the directions. The CMDA was not a party and moreover, the order of the TNRERA is erroneous in exercising the powers under Sections 11 and 14 of the RERA Act, treating the CMDA Form-IV Notice as conclusive.

7. The statutory notice was issued by CMDA, which is a statutory planning Authority under Tamil Nadu Town and Country Planning Act, 1971. According to the

learned counsel appearing for the appellant/promoter, the Authority constituted under Real Estate (Regulation and Development) Act, 2016, does not have jurisdiction to entertain or adjudicate upon the decisions/orders passed by the CMDA or any other statutory planning authorities.

8. On the other hand, the learned counsel appearing for the complainants contended that the commercial Unit No.A had been handed over to the complainants on 15.10.2020. As per Clause 14(a) of the Construction Agreement dated 14.09.2020, the appellant/promoter is liable to rectify the defects within a period of 5 years as assured by the appellant/promoter in the Construction Agreement. The respondents/complainants came to know about the violations and deviations in the commercial Unit No.A only after receiving Form-IV Notice from the CMDA on 21.01.2025 and immediately they had filed the complaint before the TNRERA. According to the learned counsel, the TNRERA after considering all the circumstances, rightly directed the promoter to comply with the directions issued by the CMDA, hence, there is no merit in the appeal and is liable to be dismissed.

9. On a perusal of Form-IV Notice said to be issued by the CMDA, it could be seen that the CMDA had observed the following deviations and violations from the approved planning permission:

i. In Block-5, Amenity Block: The double ceiling height shown in the approved plan has not been implemented on-site.
ii. According to the approved plan, the ground and first floors were intended to be a single, unified space without any internal division. However,

CMDA's observations indicate that, based on the on-site construction, these floors have been divided and constructed as two independent units, A and B.

iii. The ramp for physically challenged access has not been constructed in the commercial block (Block-5).

iv. The compound wall has been built as a separation for the commercial block (Block-5).

Based on the said Form-IV Notice, the respondents/complainants filed the complaint before the TNRERA praying for the following reliefs:

a. to direct the respondent to obtain revised approval (revised planning permission) for the on-site construction, which violates the approved plan for the ground floor and first floor of Block-5, specifically for Unit No.A and Unit No.B, as these units, shown in the approved plan, were not provided at the site.
b. to direct the respondent to obtain revised planning permission for the on-site construction, which violates the approved plan regarding the double ceiling height, as shown in the approved plan but not implemented at the site.
c. to direct the respondent to construct the ramp for physically challenged access in the commercial block (Block-5).
d. to direct the respondent to obtain revised planning permission for the on-site construction of the compound wall, which is being used as a separation for the commercial block (Block 5).
e. to direct the respondent for payment of costs associated with the application.

10. But the TNRERA, considering Sections 11(4)(a) and 14(3) of the RERA Act, 2016 passed an order that the appellant/promoter had violated and deviated in constructing the commercial Block-B from the approved plan, hence, directing the appellant/promoter to comply with directions issued by the CMDA in Form-IV Notice for retaining the usage as per approved plan within a period of 3 months.

11. When no such relief was sought for by the respondents/complainants in the complaint, the order of the Authority, directing the appellant/promoter to comply with the direction issued by the CMDA in Form-IV Notice for retaining the usage as per approved plan, is unnecessary.

12. Moreover, no appeal has been preferred by the complainants against the disallowed portions and the appeal has been preferred by the promoter only against the direction given by the TNRERA to comply with the directions of the CMDA.

13. If any deviations or violations are found by the CMDA, it is for them to take appropriate action as per the Town and Country Planning Act, 1971. Since it is a statutory Authority and the reliefs sought for by the complainants pertains to Form-IV Notice dated 08.01.2025 issued by the CMDA under the Tamil Nadu Town and Country Planning Act, 1971, CMDA is the appropriate Authority to take action as per the provisions of the Act for the non-compliance of its order.

14. In view of the above discussions, as the reliefs sought for by the complainants pertains to the Form-IV Notice dated 08.01.2025 issued by the CMDA, in the case of non-compliance of the said order, it is for the CMDA to take appropriate action as per the provisions of Tamil Nadu Town and Country Planning Act, 1971.

15. In the result, with the above observation, the appeal is disposed of. Consequently, the connected Miscellaneous Application is closed.

16. At the time of filing of the appeal, an amount of Rs.25,000/- towards litigation expenses had been deposited by the appellant under Section 43(5). Since the CMDA found deviations and violations of the approved plan by the promoter, the respondents/complainants are entitled to withdraw the said amount together with accrued interest, if any.

Sd/- xxxx
JUSTICE M.DURAISWAMY
CHAIRPERSON
14.10.2026

Sd/- xxxx
K.BABU
JUDICIAL MEMBER
14.10.2026

Copy to

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