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REAL ESTATE

Mandamus to the Regulatory Authority: A Judicial Reminder of Mandatory Enforcement Obligations under Section 40(2) of the Real Estate Act, 2016

The enactment of the Real Estate (Regulation and Development) Act, 2016 was conceived as a beneficial and self-contained legislative code designed to safeguard the interests of home buyers and ensure timely enforcement of their rights. However, the efficacy of any adjudicatory mechanism depends substantially upon the promptitude with which regulatory authorities translate their own orders into tangible relief. The […]

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The recent judgment of the Karnataka High Court in **Pradeep Kumar Dhandhania and Anr. v. Karnataka Real Estate Regulatory Authority and Ors.**, Writ Petition No. 34627 of 2025 (GM-RES), decided on 22 April 2026 by Mr. Justice Sachin Shankar Magadum, brings this critical aspect into sharp focus by censuring the inaction of the Regulatory Authority and directing it to enforce its own adjudicatory mandate.

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Background of the Case

The petitioners in the present case are **bona fide purchasers** of a residential apartment bearing number T0308D along with an appurtenant parking space in the "Pashmina Waterfront" project developed by the respondent-developer.

Aggrieved by the developer's failure to execute the sale deed and deliver possession, the petitioners had initially approached the first respondent, the Karnataka Real Estate Regulatory Authority, by filing complaint number CMP/210630/0008069.

The RERA Order Dated 28 March 2024

Upon due enquiry, the Authority passed a comprehensive order dated **28 March 2024** under Section 31 of the RERA Act, 2016, allowing the complaint and directing the developer to execute the sale deed and hand over possession of the subject flat within sixty days from the date of the order.

Additionally, the Authority directed the developer to pay a sum of **Rs. 69,65,830** towards interest on the delay period, calculated at the rate of nine per cent per annum from 31 May 2015 to 30 May 2017, and at the rate of SBI MCLR plus two per cent from 1 May 2017 until the date of handing over possession.

The order further reserved liberty to the complainants to enforce the same in accordance with law in the event of non-compliance by the developer.

Developer's Non-Compliance and Authority's Inaction

Notwithstanding the definitive nature of the order dated 28 March 2024, the developer **failed to comply** with either the direction pertaining to possession or the monetary award.

Consequent thereto, the petitioners initiated the execution machinery by filing an execution petition before the Authority, evidenced as Annexure-"E". Furthermore, a direction or order dated 17 April 2025, marked as Annexure-"L", also came to be passed by the Authority.

Despite these developments, the Authority remained completely inactive and failed to take cognizance of the execution petition or initiate any steps to secure compliance for **nearly two years**.

Confronted with such administrative apathy that rendered their crystallized rights illusory, the petitioners were compelled to invoke the constitutional jurisdiction of the High Court under **Article 227 of the Constitution of India**, seeking a writ of

mandamus or any other appropriate writ, order or direction to compel the Authority to discharge its statutory obligations.

Contentions of the Petitioners

The petitioners contended that having succeeded before the Regulatory Authority, they were entitled to the **fruits of the decree**. They emphasized that the Authority could not abdicate its statutory obligation to enforce its own orders, particularly when the statute itself provided a specific and efficacious mechanism for recovery and compliance.

They further submitted that the continued inaction caused grave prejudice and irreparable injury, depriving them of both possession of their flat and the monetary compensation awarded in their favour.

The learned counsel for the petitioners forcefully urged that *a statutory remedy cannot be permitted to become a mere parchment right on account of executive inaction*.

On the other side, the learned Standing Counsel appeared for the first respondent Authority, while the AGA appeared for respondents two and three respectively. The Court heard the rival submissions and proceeded to adjudicate upon the issues arising from the undisputed factual premise of the Authority's inaction.

Key Issues Before the Karnataka High Court

The case squarely raised the following **fundamental issues**:

1. Whether the RERA Authority is vested with a mandatory statutory duty to enforce its own orders under Section 40(2) of the RERA Act, 2016 read with Rule 26 of the Karnataka Real Estate (Regulation and Development) Rules, 2017.
2. Whether the prolonged delay of nearly two years in initiating execution proceedings amounted to a clear dereliction of statutory duty.
3. Whether the petitioners, having acquired an enforceable legal right pursuant to the Authority's order, were entitled to a writ of mandamus directing the respondents to enforce the order and recover the awarded amounts in accordance with the statutory framework.

Statutory Framework: Section 40(2) of RERA and Rule 26

The Court's analysis rested upon a close and purposive interpretation of the statutory provisions governing the enforcement mechanism under RERA.

Section 31 of the Act, 2016 empowers the Regulatory Authority to pass orders on complaints, including directions for execution of sale deeds, delivery of possession, and payment of interest or compensation. However, the adjudicatory function would be rendered nugatory in the absence of an equally strong enforcement mechanism.

This gap is filled by **Section 40(2) of the Act**, which unequivocally mandates that the Authority shall, for the purpose of enforcing its orders particularly in relation to recovery of amounts, adopt the mode of recovery as arrears of land revenue.

The statutory mandate is further reinforced by **Rule 26 of the Karnataka RERA Rules, 2017**, which empowers and obligates the Authority to ensure enforcement of its orders or that of the Appellate Tribunal, including by referring matters to the Principal Civil Court where necessary.

The Court observed that this legislative scheme leaves no manner of doubt that the Authority is clothed with a **mandatory duty** to enforce its own orders and cannot treat the same as a discretionary or dormant power.

Court's Observations on Administrative Apathy

Expressing considerable concern over the state of affairs, the Court held that the inaction and administrative apathy on the part of the Authority **strikes at the very root of the statutory framework**.

> *The right crystallized in favour of the petitioners by virtue of the order passed under Section 31 cannot be permitted to remain illusory on account of executive inaction.*

The Court emphasized that the Authority, being a creature of statute, is bound to act in aid of its own orders and cannot abdicate its statutory obligations.

The delay of nearly two years in not initiating execution proceedings, despite a formal application by the petitioners, amounts to a **clear dereliction of duty** and defeats the very object of the enactment, which seeks to instill confidence among home buyers and ensure timely delivery of projects.

The Court further observed that it cannot countenance such laxity on the part of a statutory authority, more so when the statute itself provides a clear and efficacious mechanism for enforcement.

The Authority is expected to act with **promptitude and diligence**, particularly in execution proceedings, which are intended to fructify the rights already adjudicated. Failure to do so would amount to rendering the statutory remedy illusory and defeating the legislative intent.

Directions Issued by the High Court

In light of the foregoing discussion and having regard to the statutory mandate contained in Section 40(2) of the Act, 2016 read with Rule 26 of the Rules, 2017, the Court held that the petitioners were entitled to seek a **writ of mandamus** directing the Authority to discharge its statutory obligations in letter and spirit.

Accordingly, the writ petition was allowed and the Court proceeded to pass comprehensive directions to ensure that the adjudicatory orders do not remain on paper but are translated into effective reliefs on the ground:

1. **Cognizance of the execution petition:** A writ of mandamus was issued directing the first respondent Authority to forthwith take cognizance of the execution petition filed by the petitioners and to proceed with the execution of the order dated 28 March 2024 strictly in terms of Section 40(2) of the Act read with Rule 26 of the Rules.
2. **Relief No. 1 — Execution of sale deed and possession of Flat No. T0308D:** The Authority was directed to refer the matter to the Principal Civil Court in accordance with Rule 26 within an outer limit of six weeks from the date of receipt of a certified copy of the order.
3. **Relief No. 2 — Payment of interest:** The competent authority and Special Deputy Commissioner were directed to initiate recovery proceedings in accordance with Section 40(2) of the Act and recover the amount as arrears of land revenue, disbursing the same to the petitioners within a period of three months from the date of receipt of a certified copy.
4. **Warning against further delay:** The Court made it explicitly clear that any further delay or inaction on the part of the respondent authorities in complying with these directions shall be viewed seriously and may invite appropriate proceedings in accordance with law.

Significance of the Judgment

The judgment in **Pradeep Kumar Dhandhania and Anr. v. Karnataka Real Estate Regulatory Authority and Ors.** is a salutary reminder that regulatory authorities under the RERA framework are not merely adjudicatory bodies but are equally entrusted with the affirmative obligation to enforce their own orders with diligence and promptitude.

By issuing a writ of mandamus and imposing strict timelines for enforcement, the Karnataka High Court has reinforced the foundational principle that **statutory remedies must remain meaningful and effective**, and that administrative inertia cannot be allowed to erode the rights of home buyers under a beneficial legislation enacted to protect their interests.

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