

**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: 22.04.2026

Delivered on: 29.04.2026

Coram : Hon'ble Mr.Justice M.Duraiswamy, Chairperson  
Mr.K.Babu, Judicial Member  
Selvi Apoorva, I.A.S. (Retd.) Administrative Member

Appeal No.25 of 2026  
and  
M.A.No.72 of 2026

M/s.Malles Constructions Pvt. Ltd.  
rep. by its Company Representative  
C.Thilakraj

... Appellant

Vs.

Vasa Siva Naga Ganesh Kumar

... Respondent

Appeal has been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 a) to allow the appeal and to pass an order to set aside the order dated 11.02.2026 in I.A.No.45 of 2025 in C.No.155 of 2024 passed by the Tamil Nadu Real Estate Regulatory Authority (TNRERA) Chennai.

For Appellant : Ms.R.Shreemohanapriya

Respondent : Mr.Vasa Siva Naga Ganesh Kumar (Party-in-person)

**ORDER**

Challenging the interim order passed by the TNRERA allowing the application in I.A.No.45 of 2025 in C.No.155 of 2024 appointing an independent Engineer to inspect the Villa No.55B in the project, namely, "Malles Akanksha", the promoter has filed the above appeal.

2. According to the learned counsel appearing for the appellant/promoter, the respondent/complainant filed a complaint in C.No.155 of 2024 claiming the following reliefs:-

- i. Penalty for Non-Compliance
- ii. Completion of Advertised Amenities
- iii. Penalty for False Information
- iv. Infrastructure and Defect Rectification
- v. GST invoice and Refund
- vi. Reimbursement of Expenditures
- vii. Legal Litigation Responsibility
- viii. Order for Compliance and Disclosure
- ix. Compensation for Delay and Mental Agony.

3. The complainant filed an application in I.A.No.45 of 2025 for appointing an independent Engineer under Section 36 of the RERA Act, 2016, to inspect the construction with reference to Model Villa 19 along with Brochure promised amenities. The window for the 1<sup>st</sup> floor has been compromised because of the

construction of the adjacent Villa No.55A, which is in clear violation of the brochure and Construction Agreement. The said application has been allowed without considering the fact that the respondent/complainant had already filed a complaint in C.No.141 of 2021 and as per the order dated 30.12.2021, the claim of the respondent/complainant regarding the poor construction and use of low standard materials was rejected. The appellant/promoter had rectified the defects by appointing a site Engineer for Villa No.55B and rectification works were carried out. In such circumstances, the claim made by the respondent/complainant is not sustainable and the irregularities about the OHT/front elevation, spiral staircase, parking pergola, 2<sup>nd</sup> floor pergola and the window for the 1<sup>st</sup> floor that has been compromised are additional features, which are subject to normal wear and tear over a period of time and does not attribute to any structural defects. According to the learned counsel appearing for the appellant/promoter, none of the issues were raised by the respondent/complainant earlier and without considering all those circumstances and also the earlier order passed in C.No.141 of 2021, appointing an Engineer by the Authorities, is not in accordance with law. In these circumstances, the learned counsel for the appellant prayed for allowing the above appeal.

4. On the other hand, the respondent/complainant, who appeared in person, contended that the claim of the appellant/promoter is not sustainable and violating the order passed in C.No.141 of 2021 where it has been stated that the appellant/promoter is duty bound to rectify the defects in accordance with Section

14(3) of the Act. In spite of the claim made by the respondent/complainant, the appellant/promoter rejected the request and the appellant/promoter had used the poor quality materials with an intent to cut the cost of construction and there are certain irregularities in the OHT/front elevation, spiral staircase, parking pergola, 2<sup>nd</sup> floor pergola and the window for the 1<sup>st</sup> floor has been compromised because of the construction of adjacent Villa No.55A, which is in clear violation of the brochure and Construction Agreement. Hence, the respondent/complainant filed an application in I.A.No.45 of 2025 under Section 35 of the RERA Act, 2016, which was rightly allowed by the TNRERA, hence, the appeal is to be dismissed.

5. Heard both sides.

6. According to the learned counsel appearing for the appellant/promoter, the respondent/complainant filed an I.A.No.45 of 2025 for appointing an independent Engineer to find out the defects and irregularities in the OHT/front elevation, spiral staircase, parking pergola, 2<sup>nd</sup> floor pergola and the window for the 1<sup>st</sup> floor has been compromised because of the construction of adjacent Villa No.55A. The said order is not in accordance with law in view of the order passed in the earlier proceedings in C.No.141 of 2021 rejecting the claim regarding poor construction and low standard material.

7. While disposing of the complaint in C.No.141 of 2021, in para 25, the TNRERA has observed as follows:

“25. ... However, the complainant Allottee can always bring to the notice of the Respondent Promoter any structural defect or any other defects, etc. as per Section 14(3) of the Act and the Respondent

Promoter is duty bound to rectify such defects in accordance with Section 14(3) of the Act.”

8. Hence, the contention of the learned counsel appearing for the appellant/promoter that the appellant/promoter is not duty bound to rectify the defects is not acceptable, since, the order in C.No.141 of 2021 clearly states that “any structural defect or any other defects, etc. as per Section 14(3) of the Act and the Respondent Promoter is duty bound to rectify such defects in accordance with Section 14(3) of the Act.”

9. Hence, appointing an independent Engineer as per Section 35 of the RERA Act to find out the irregularities as claimed by the respondent and also to rectify the defects, is in accordance with law.

10. Moreover, while considering the relief sought for by the respondent/complainant in the complaint which includes a direction to the appellant/promoter to provide the infrastructure, layout and design as promised and assured in the brochure/prospectus and to rectify any defects in the standard or quality of the Villa, it is necessary to appoint an independent Engineer as rightly contended by the respondent/complainant, appearing in person.

11. Further, appointing an independent Engineer will not cause prejudice to the appellant/promoter in anyway. In fact, it will be helpful, not only to the respondent/complainant, but also to the appellant/promoter to find out the irregularities, if any and to rectify the defects found by the independent Engineer.

12. The learned counsel appearing for the appellant/promoter contended that the present complaint in C.No.155 of 2024 filed by the complainant is hit by *resjudicata* for the reason that the issues involved in the present complaint were already decided in C.C.P.No.48 of 2022 on the file of the Adjudicating Officer, TNRERA and in Appeal No.30 of 2024 on the file of this Tribunal. The learned counsel submitted that the complainant cannot repeatedly file complaints for the very same reliefs which were already decided. In these circumstances, the learned counsel submitted that the present complaint filed by the complainant is liable to be dismissed.

13. However, since the issue involved in the present appeal is only with regard to the appointment of an independent Engineer to inspect the Flat and to file a report, we are not giving any finding with regard to the contention raised by the learned counsel appearing for the appellant. In the case of the appellant/promoter raising this issue before the TNRERA, the TNRERA shall decide the said issue, on merits and in accordance with law.

14. In view of the above discussions, after considering all the circumstances, the TNRERA has rightly appointed an independent Engineer under Section 35 of the RERA Act. We do not find any reason to interfere with the findings of the TNRERA. Accordingly, the appeal is liable to be dismissed and the same is dismissed.

15. The amount of Rs.15,000/- deposited as pre-deposit by the appellant/promoter is ordered to be deposited before TNRERA to the credit of I.A.No.45 of 2025 in C.No.155 of 2024.

16. The interim stay granted already shall stand vacated and the Miscellaneous Application in M.A.No.72 of 2026 is also dismissed.

Sd/- xxxx  
JUSTICE M.DURAIWAMY  
CHAIRPERSON  
29.04.2026

Sd/- xxxx  
K.BABU  
JUDICIAL MEMBER  
29.04.2026

Sd/- xxxx  
SELVI APOORVA, I.A.S. (RETD.)  
ADMINISTRATIVE MEMBER  
29.04.2026

Copy to

1. The TNRERA
2. Vasa Siva Naga Ganesh Kumar  
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Nookampalayam Road  
Perumbakkam  
Chennai - 600 100.

