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**Office of the Adjudicating Officer
KERALA REAL ESTATE REGULATORY AUTHORITY
THIRUVANANTHAPURAM**

COMMISSION FOR LOCAL INSPECTION

CASE No. CCP ¹⁰⁵...../2020

Petitioner : 1. Shiju Varughese Simon
2. Saino Hanna Varghese

By Advocate : Sri. Thomas Koehenayi - Ph: 807567313.

Counter Petitioner : 1. M/s PTC Builders
2. Mr. Biju Jacob.

By Advocates : Sri. V. Ajakumar - Ph: 9447048221

Whereas, it is deemed requisite for the purpose of filing report in the matters as required in IA . 03 /2021 in CCP No. 105 . . . /2020 You are hereby appointed as the Commissioner. You are hereby requested to give notice to the respondents prior to local inspection.

Report to be filed on or before 23-04-2021

A sum of Rs. 7500/- (Rupees Seven Thousand and Five - hundred only) is directly paid / will be paid to you by the petitioner towards the commission batta.



Given under my hand and seal of this office on the 13th day of April 2021.

[Signature]
**ADJUDICATING OFFICER
K-RERA**

To

Sri. Adv. P. R. Shibu.
Advocate Commissioner
Pathanamthitta
Mobile- 9447387427
Email - advocatexpshibu@
gmail.com

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Presented on: /01/2021

IN THE OFFICE OF THE ADJUDICATING OFFICER, SWARAJ
BHAVAN, 5TH FLOOR, NANTHENCODE, KOWDIAR P.O.,
THIRUVANANTHAPURAM.

I.A.No. of 2021
in
Application No. CCP 105 of 2020

Between

Mr. Shiju Varughese Simon and another	Applicants
And		
M/s. P.T.C. Builders and another	Respondents

COMMISSION APPLICATION FILED BY THE APPLICANTS

Counsel for the Applicants
THOMAS KOCHENAYIL
Advocate

(MOB: 8075673138;

e-mail: Kochenayilthomas@gmail.com)

2/9

Presented on: /01/2021

IN THE OFFICE OF THE ADJUDICATING OFFICER, SWARAJ
BHAVAN, 5TH FLOOR, NANTHENCOD, KOWDIAR P.O.,
THIRUVANANTHAPURAM.

I.A.No. of 2021
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Application No. CCP 105 of 2020

Between

Mr. Shiju Varughese Simon and another	Applicants
And		
M/s. P.T.C. Builders and another	Respondents

COMMISSION APPLICATION FILED BY THE APPLICANTS

Counsel for the Applicants
THOMAS KOCHENAYIL
Advocate

(MOB: 8075673138;

e-mail: Kochenayilthomas@gmail.com)

IN THE OFFICE OF THE ADJUDICATING OFFICER, SWARAJ
BHAVAN, 5TH FLOOR, NANTHENCODE, KOWDIAR P.O.,
THIRUVANANTHAPURAM.

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Application No. CCP 105 of 2020

Between

Mr. Shiju Varughese Simon and another
And

.....

Applicants

M/s. P.T.C. Builders and another

.....

Respondents

AFFIDAVIT

I, Shiju Varughese Simon, S/o T.V. Simon, aged 43 years, residing at Chempakathinal, Nalkalikkal P.O., Aranmula PIN 689533 do hereby solemnly affirm and state as follows:-

1. I am the 1st applicant in the above C.C.P. and 1st petitioner in the accompanying petition. I know the facts of this case and I am competent to swear this affidavit. I swear this affidavit for and on behalf of my wife, the 2nd applicant / 2nd petitioner also.
2. The above C.C.P. is filed for the refund of entire amount of Rs.29,41,000/- along with interest @ 15.25% from 19.1.2017 till the date of payment from the respondents to the applicants, compensation to the tune of Rs.25,00,000/- (Rupees twenty five lakh only) from the respondents and their assets and cost of this proceedings and such other orders as this Hon'ble Adjudicating Officer may deem fit and proper. The accompanying petition is filed for appointing an advocate Commissioner for local inspection to prepare a report and mahazar and take photographs with the assistance of a Photographer, regarding the matters set-forth in the accompanying petition.

3. It is submitted that we have entered into agreement with the respondents, on 4.5.2016 with respect to a project of construction of Multi-storey building which the respondents had commenced in the year 2013. We were made believe that the respondents had obtained Building permit bearing No. BA 111/13-14 dated 13.5.2013 for the construction of the multistoried building in the property comprised in Re.Sy. No. P16/1-3, P16/1-15, P16/1-6, P16/1-2, P16/1-16, 17 of Pathanamthitta Village belonging to one Mr. Jacob Mathew W/o late Jacob, Mulakkilethu House, Makkamkunnu, Santhosh Junction, Pathanamthitta. As per the above said agreement, the respondents had agreed to construct multistoried residential apartment complex by name "P.T.C. Western Ghats" and hand over the occupation and possession of the apartment unit bearing Flat No,5 G, measuring a super built up area of 1225 Sq. ft. situated on 5th Floor along with a covered car parking space on the Basement / Ground Floor marked No. 5G in the Complex along with 1.33% of undivided interest in the above said property for a total consideration of Rs.42,58,100/- (Rupees forty two lakhs fifty eight thousand and one hundred only) in an occupiable condition and with the said facilities by December, 2016 with a grace period of 6 months. We have paid a total sum of Rs. 29,41,000/- to the respondents in advance. But the respondents failed to complete the construction as agreed by them and they deliberately and willfully violated the terms and conditions of the agreement entered into between them and us. As the respondents have violated the agreement for sale, we rescinded from the contract and demanded them to refund the entire amount of Rs.29,41,000/- along with interest @ 15.25% from 19.1.2017 till the date of payment on many occasions, since the respondents are legally bound to refund the same to us. But the respondents have not paid

any heed to the said demand.
necessitated.

Hence the above C.C.P. is

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4. In this connection, it is submitted that still the respondents have to do the following works in the above said project and the same will prove the deliberate and willful default from the part of the respondents in performing their part of obligations under the agreement entered into with us.
1. KSEB Consumer connection is not available (only Construction connection is available)
2. STP Plant not working/Not completed
3. STP Tank and Water Well close by and no KWA connection for drinking water
4. Civil Works, Windows not completed in some flats.
5. Car parking is not properly plastered as a result of which flooding is occurred during rainy season
6. The premises are not cleaned and not properly painted
7. Construction materials not removed from the premise
8. Pipes and other materials used for the construction is very old and poor Quality. Many of the fittings has already been rusted.
9. Cheap quality tiles and pipe fittings are used
10. Water leaks on the pipes inside the walls, so walls are wet
11. Covered car parking area, 5G is not allotted and marked.
12. Water flows inside the flat during raining time as the shades are not provided as per the Building Plan.
13. Stability of the building is in doubt as there are cracks in the concrete roof on base floor across the building.
14. Amenities such as Swimming pool, home theatre, health club, organic waste plant, children's park, jogging track, driver's rest room, clinic etc. have not been provided or made available as per broacher.

5. In order to ascertain the above said facts and bring the same before this Hon'ble authority, and for the proper and fair adjudication of the matter in issue in the above said case, it is highly necessary to appoint an advocate Commissioner for preparing a report and mahazar, taking of photographs with the assistance of a Photographer, regarding the matters set-forth in the accompanying petition. Hence the accompanying petition is necessitated.
6. Unless the petition is allowed, we will be put to irreparable injury, loss and untold hardship.
7. Hence in the interest of justice it is prayed that this Hon'ble authority may be pleased to appoint an Advocate Commissioner for preparing a report and mahazar, taking of photographs with the assistance of a Photographer, regarding the matters set-forth in the accompanying petition.
8. A separate petition to that effect is filed herewith and that may kindly be allowed

All the facts stated above are true and correct to the best of my knowledge, information and belief.

Dated this the 11th day of January, 2021.

Deponent

Solemnly affirmed and signed before me by the deponent whom I know personally on this the 11th day of January, 2021 at my office in Thiruvananthapuram.

ADVOCATE

K/864/05
Adv. Thomas K. K. K.

IN THE OFFICE OF THE ADJUDICATING OFFICER, SWARAJ
BHAVAN, 5TH FLOOR, NANTHENCODE, KOWDIAR P.O.,
THIRUVANANTHAPURAM.

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I.A.No. of 2021
in

Application No. CCP 105 of 2020

Petitioners:- (Applicants)

1. Mr. Shiju Varughese Simon, S/o T.V. Simon, aged 43 years, residing at Chempakathinal, Nalkalikkal P.O., Aranmula PIN 689533
2. Mrs. Saino Hanna Varghese, W/o Shiju Varughese Simon, aged 37 years, residing at Chempakathinal, Nalkalikkal P.O., Aranmula PIN 689533

Counter petitioners:- (Respondents)

1. M/s. P.T.C. Builders, having its head office at P.T.C Towers, S.S.Kovil Road, Thiruvananthapuram, PIN - 695 001, represented by its Managing Partner, Mr. Biju Jacob, S/o late P.T. Chacko, residing at Palasseril House, Kottamughal, Nalanchira P.O., Thiruvananthapuram – 695015
2. Mr. Biju Jacob, S/o late P.T. Chacko, aged about 57, residing at Palasseril House, Kottamughal, Nalanchira P.O., Thiruvananthapuram – 695015

Petition filed by THOMAS KOCHENAYIL, Advocate, Vanchiyoor, Thiruvananthapuram (MOB: 8075673138; e-mail: Kochenayilthomas@gmail.com) for and on behalf of the petitioners / Applicants under Order 26, Rule 9 and Sec.151 of C.P.C.

For the reasons stated in the accompanying affidavit it is most respectfully prayed that this Hon'ble authority may be pleased to appoint an Advocate Commissioner for preparing a report and mahazar, taking of



photographs with the assistance of a Photographer, regarding the matters set forth hereunder.

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Matters sought to be ascertained:-

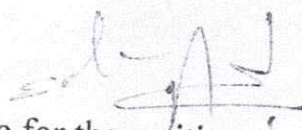
1. The present status and condition of the construction of multistory building known as PTC WESTERN GHATS in Pathanamthitta Village.
2. The present status, condition etc. of the apartment unit bearing Flat No,5 G, measuring a super built up area of 1225 Sq. ft. situated on 5th Floor and the covered car parking space on the Basement / Ground Floor marked No. 5G in the Complex.
3. To measure out, ascertain and report whether the apartment unit bearing Flat No,5 G, situated on 5th Floor has the built up area of 1225 Sq. ft.
4. The status of common area, swimming pool, home theatre, health club, organic waste plant, children's park, jogging track, driver's rest room, clinic etc. in the PTC Western Ghats
5. Whether electricity connection has been provided to the building. If so, the nature and details of the same.
6. Whether water connection has been provided to the building. If so, the nature and details of the same.
7. The details of STP plant status.
8. The civil works and windows yet to be completed in the above said building.

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9. The details of parking area provided in the above said building. Whether the works of the said car parking area have been completed?
10. Whether the premises have been cleaned and painted? If not, the details with respect to the same.
11. Whether the construction materials have been removed from the premises and its surrounding area? If not, the details of the construction materials dumped therein.
12. The details of the pipes and other materials used for providing sanitation and sanitary works and the quality of the materials used for the same.
13. The quality of tiles used in the toilets?
14. The leakage of water from the pipes inside the walls
15. Whether the apartments are ready for occupation with full facilities and amenities as agreed in the agreement entered into between the petitioners and respondents. If not, report the details.
16. Any other matters which are requested to be noted at the time of visit of the Advocate Commissioner.

Dated this the 11th day of January, 2020.


Advocate for the petitioners



Advocate