BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

CORAM : Shri. JAYANT B. DANDEGAONKAR, DY. SECRETARY, PUNE

SUO MOTU ADVERTISEMENT/
PUNE CASE NO.146 OF 2024

MahaRERA on its own Motion .... Complainant

Versus

Shreenath Developers Pvt.Ltd. .... Respondent
"NISARG PAK" – Unregistered Plotted Project

Appearance :- Adv. Preetpalsingh Nahal

ORDER
31ST JULY, 2025
(Through Video Conferencing)

1. MahaRERA Authority has issued show-cause notice on dated 11.07.2024 to the respondent-promoter for publishing and circulating the advertisement by way of pamphlet in the public at large in respect of real estate project by name "NISARG PARK" situated at village Markal, Tal. Haveli, District Pune, without registering the same with MahaRERA, and thereby violated Section 3 of the Real Estate (Regulations And Development) Act, 2016 (hereinafter called as "RERA").

2. Therefore, in delegation of powers in the name of undersigned by the MahaRERA Authority by its Office Order No.MahaRERA/Secy/DoP/Advertisement/41/2025, dated 16th January, 2025, a show-cause notice, dated 11.07.2024 was issued to the Respondent-Promoter calling upon to show cause as to why penalty under Sectio 59 of the RERA should not be imposed upon him.

3. The respondent-promoter has submitted his reply dated 27.09.2024 and denied the charges leveled in the show cause notice, dated 11.07.2024. The respondent-promoter has denied to have violated the provision of Section 3 of the RERA. The respondent-promoter in his reply has contended that the land under the said project is an agricultural land and the purpose of the plotting is for farm houses. He has further stated that the project is not falling within the periphery of the RERA and therefore, registration of the said project under the RERA is not mandatory one as contemplated in Section 3 and 4 of the Act. He has further contended that the show cause notice therefore, is null and void being no jurisdiction and force. It is further contended by the respondent-promoter that the notice is on the basis of false and baseless information given to MahaRERA by unknown source. It is the contention of the respondent-promoter that he has not obtained any sanction to the layout only for the purpose as it is not for residential purpose and the plotting is for farm house purpose only and therefore, the provisions of RERA are not applicable to the respondent.

3. Adv. Preetpalsingh Nahal appeared on behalf of the respondent. He has reiterated the contentions raised out by the promoter in his reply. He has submitted that the project is of agricultural land and does not come within the purview of Section 2(zn) of the Act, 2016. In support of his contentions, respondent has furnished on record xerox copy of 7/12 extract of the lands bearing Gat No. 66 of village Tulapur, Tal. Haveli, District Pune and the Zone Certificate, dated 01.03.2024 issued by the Pune Metropolitan Regional Development Authority, Pune. The respondent has also furnished affidavit contending that the lands under the project are agricultural lands.

4. Section 2 of the Act, 2016 deals with definitions. Section 2(zn) of the said Act, 2016, defines the expression **'real estate project'**, which means ***"the development of a building or a building consisting of***

apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto."

5. MahaRERA Authority in the complaint No. SC10000227 has held that, "the subject plot purchased by the complainant is an agricultural land as no Competent Authority has granted any N.A. order or permission otherwise for development of the said land". It was further held that the subject project was not a real estate project and is therefore, not liable for registration under Section 3 of the Act." This order of MahaRERA Authority was challenged before the MahaRERA Appellate Tribunal. The Hon'ble Appellate Tribunal in the case of Mohammed Zain Khan v/s. Emnoy Properties India and others, has held as under :-

> **"Since the first project continues to be an agricultural land in the absence of any orders, there is no need to register the said projects with the MahaRERA Authority."**

6. The Hon'ble Appellate Tribunal in the aforesaid matter, in para 13(v) has held as under :-

> **"In above circumstances, in agreement with the Authority and limited to the facts of this case, it is concluded that land pertaining to the First Project continues to be an agricultural land in the absence of any N.A. orders for its development. Therefore, we find no illegality or infirmity as such in the view taken by the Authority to hold that the First Project is not a real estate project for the reasons**

stated in the impugned order and therefore, the same is not liable to be registered under the Act."

7. The Hon'ble Appellate Tribunal has further *inter-alia,* held in para 13(vii) as under :-

> **"The contention of the Complainant, that he has been denied reliefs under the Act by the Authority by taking erroneous view (in para 13 of the Order) that provisions of the Act are applicable to the registered projects only, itself appears to be erroneous. Simply put, in our view, provisions of the Act shall apply to i) Registered projects, being liable to be registered and ii) projects liable to be registered but not registered (unregistered). However, in case a project is unregistered being not liable to be registered, as is the case in this appeal, provisions of the Act shall not apply to such a project. (Emphasis supplied).**

8. Considering the documentary evidence adduced by the respondent viz. the 7/12 extracts of the lands, affidavit of respondent, as well as judgment and order passed by the MahaRERA Authority as well as Appellate Tribunal in the aforesaid matter, it is crystal clear that the lands of this project are agricultural lands and therefore, do not fall within the four corners of the definition of the 'real estate project', as defined under Section 2(zn) of the Act of 2016. Consequently, this project is not required to be registered with MahaRERA Authority until the status of the said lands as "Agricultural lands" continues.

9. In view of the above stated facts, provisions of Act, 2016 and the ratio laid down by Appellate Tribunal, it can be said that the case against the respondent is not established at all. As such there is no violation of Section 3 of the Act of 2016 in regards to this project. Considering this,

the penalty provision of Section 59 of the Act of 2016 for the purpose of imposing penalty would not attract in this matter. The matter stands disposed off accordingly.

Pune
Date :- 31.07.2025

(JAYANT B. DANDEGAONKAR)
DEPUTY SECRETARY, MAHARERA
PUNE