

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY
AUTHORITY, PUNE**

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO.93 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Kolte Patil Developers Ltd.

24K Manor-Tower A.

.... Respondent

MahaRERA Project Registration No.P52100052151

Coram: Shri.F.D.Jadhav, Dy.Secretary-Cum-Head

Appearance :-Mr. Kapatkar for respondent.

ORDER

12th December, 2023

(Through Video Conferencing)

1. MahaRERA has issued a show cause notice, dated 04.09.2023 to the respondent-promoter for publishing an advertisement of its real estate project by name "24K Manor-Tower A" in social media "Instagram" without including QR Code and thereby violating the directions issued in the MahaRERA Order No. 46/2023, dated 29.05.2023 read with Order No.46A/2023, dated 25.07.2023.
2. The respondent-promoter has filed its interim reply, dated 12.10.2023 and reply, dated 27.11.2023 wherein it has been contended that the impugned advertisement is not displayed by the promoter. The promoter has further contended that upon review and inquiry, it affirmed that no such advertisement with regard to the said project has been generated or disseminated by it without the inclusion of the required QR Code. It has been further contended by the respondent-promoter that on bare perusal of the attachment to the show cause notice, dated 04.09.2023, it observed that there is no disclosure on whose Instagram account such advertisement was allegedly found/published nor any


statement of such person owning that account. The respondent-promoter has further contended that due to absence of such information regarding the identity of the individual responsible for the publication of such alleged Instagram advertisement, their ability to conduct thorough investigation into possible sharing of said advertisement by entities external to their company is significantly impeded and it is imperative for them to investigate the origins of these actions to safeguard the prestige of their organization. The respondent has further contended that they therefore, refute the assertion that any such advertisement pertaining to the said project was published by them without the mandatory provision of QR Code. The respondent has further contended that they have not violated any directions issued by MahaRERA under Order No.46/2023, dated 29.05.2023 read with Order No.46A/2023, dated 25.07.2023. Lastly, the respondent has prayed that no penal action be taken under Section 63 of the Act, 2016 against them.

3. The respondent-promoter has further furnished a copy of the complaint, dated 01.12.2023 of false advertisement in his company's name with the Bundgarden Police Station, Pune against unknown person for publishing the impugned advertisement of their project without QR Code on the instagram. This complaint is filed under Section 426 of Indian Penal Code and Section 66C, 66D, 67D of Information & Technology Act, 2000.
4. Adv. Kapatkar appeared on behalf of respondent-promoter. He has reiterated the contentions raised by the respondent-promoter in his reply. Learned Advocate for respondent submitted that there is no violation of the MahaRERA Order No.46/2023, dated 29.05.2023 read with Order No.46A/2023, dated 25.07.2023 on the part of the promoter, as the impugned advertisement has been published on Instagram by unknown person and there is nothing on record to identify as to on whose Instagram account, the impugned advertisement has been published. Adv.

Kapatkar argued that the provision of Section 63 cannot be therefore, invoked against the respondent-promoter.

5. It is evident from the reply of the promoter coupled with the complaint, dated 01.12.2023 lodged with Bundgarden Police Station that the promoter is not liable for publishing the impugned advertisement on 'Instagram' of his project "24K-Manor Tower A". The complaint lodged by the promoter with the police station explicitly indicates that this promoter had no knowledge and was not aware of the advertisement published on 'Instagram' of their project. This promoter had not given approval or consent to publish such advertisement. Therefore, it is difficult to hold guilty to the promoter for violating the MahaRERA Order No.46/2023, dated 29.05.2023 read with MahaRERA Order No. 46A/2023, dated 25.07.2023.

6. As there is no prima facie evidence to prove the case it can be said, this promoter has not violated the Order No.46/2023 and 46A/2023. Consequently this is not a fit case to impose penalty in the matter under Section 63 of the Act of 2016.


(F.D.Jadhav)
Dy.Secretary-Cum-Head,
MahaRERA, Pune

