

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.171 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

RSM Dharashiv Shelters

.... Respondent

**MahaRERA Project Registration No.P52500029666**

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

Appearance :- Mr.Dheeraj Dharmavat, C.A.

**ORDER**

16<sup>th</sup> January, 2024

(Through Video Conferencing)

1. MahaRERA has issued show cause notice, dated 23.11.2023 to the respondent-promoter for publishing advertisement in daily newspaper "Lokmat" dated 28-10-2023 in respect of Real Estate Project by name "Jay Bharat Sadnika Prakalp" situated at Survey No.38, Tuljapur Road, Dharashiv without registering the same with MahaRERA and thereby violating the provisions of Section-3 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016")
2. The Respondent/Promoter has submitted his reply on 18-12-2023. The Respondent has contended in the said reply that this project is already registered under MahaRERA Registration No.P52500029666. The project having name Jay Bharat Sadnika Prakalp is registered under the name RSM Dharashiv Shelter, Osmanabad. It is further contended by the promoter that while publishing advertisement in daily newspaper he forgot to mention the registration number unfortunately.
3. The show cause notice though issued for violation of Section-3 of the Act, 2016, it has come on record that the said project has already been

registered with MahaRERA but project registration number and QR Code has not been mentioned in the impugned advertisement. Therefore the cognizance of violation of Section-11 (2) of the Act, 2016 and the breach of MahaRERA Order No.46/2023 dated 29-05-2023 and Maharera Order No.46A/2023 dated 25-07-2023 is required to be taken into consideration in the matter.

4. Mr.Dheeraj Dharmavat, C.A appeared on behalf Respondent/ Promoter. He has reiterated the contentions made out by the Respondent in the reply. He has submitted that the said project is already registered with Maharera vide registration No. P52500029666 and registration certificate is issued by MahaRERA Authority on 26-06-2021. However, he voluntarily admits that the project registration number and QR Code has not been inserted in the impugned advertisement as this promoter has forgot the same. Mr.Dharmavat has requested for leniency while imposing penalty on the ground that the Promoter was not knowing the provisions of RERA Act, 2016.
5. At this juncture Section-11(2) of the Act, 2016 is material in this matter which reads as under:

**Sec-11(2):- "The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto."**

6. On careful perusal of the Section 11(2) manifestly shows it is imperative on the part of the promoter to mention the MahaRERA Registration number of the project in the advertisement issued by him. In this matter admittedly the Respondent/Promoter has not provided project registration number in the advertisement of this project published by him. It unequivocally indicates that he has contravened the provisions of Section-

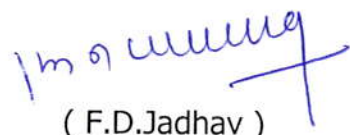


11(2) of the Act, 2016 and therefore he is liable for the penalty under the provisions of Section 11(2) of the Act, 2016.

7. Maharera has issued order No.46/2023 dated 29-05-2023 and issued some directions in respect of QR Code i.e. the promoter shall prominently display the QR Code on each and every project promotion/advertisement published after 1<sup>st</sup> August, 2023 etc. The mediums for display of QR Code are also described in the said Order. Maharera Authority has also issued Order No.46A/2023 dated 25-07-2023 and thereby prescribed the amount of penalty to be imposed for violation of the directions issued in the Maharera Order No.46/2023 in regards to QR Code.
8. The show cause notice dated 23-11-2023 has been issued in this matter for violation of Section-3 of the Act, 2016 by the Promoter. However, the Promoter has proved that he has registered his project on 26-06-2021 long before to publishing the advertisement in daily newspaper "Lokmat" on 28.10.2023. In view of this fact, there is no prima facie proof to show that the Promoter has violated Section-3 of the Act, 2016. Consequently penalty cannot be imposed in this matter under Section 59 of the Act, 2016. However, it can be seen from the advertisement itself that the project registration number as well as QR Code has not been displayed therein. The Respondent/Promoter has also voluntarily admitted in his reply as well as at the time of oral argument that the project registration number and QR Code has not been inserted in the impugned advertisement as he has forgot to mention the same. Therefore, considering the evidence adduced on record, the legal provisions of the Act, 2016 and the voluntary admission of the Respondent/Promoter, it can be said that this promoter has violated the provision of Section-11 (2) of the Act, 2016 as well as directions of the Maharera Authority issued under Order No.46/2023 dated 29-05-2023 r.w. Order No.46A/2023 dated 25-07-2023.
9. Considering the facts of this case, documentary evidence produced by the respondent vis a vis law discussed hereinabove, it can be said that

the violation of the Section-11 (2) and QR Code by the Respondent/ Promoter are proved and therefore this is a fit and suitable case to impose penalty against the Respondent/Promoter under Section-61 and 63 of the Act, 2016.

10. In view of the above, the penalty of Rs.25,000/- under Section 61 of the Act, 2016 is imposed upon the promoter for committing violation of Section 11(2) of the Act, 2016.
11. Further penalty of Rs.25,000/- under Section 63 of the Act, 2016 is imposed upon the promoter for committing breach of the MahaRERA Order No.46/2023 read with 46A/2023.
12. The said penalty shall be payable by the promoter within 15 days from the date of this order, failing which promoter shall be liable to penalty of Rs.500/- per day (for each count), in addition, till the realization of entire amount.
13. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by promoter for extension, corrections, change of name etc., with respect to the said project.

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