

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 08 OF 2024**

MahaRERA on its own Motion Complainant

Versus

Shree Sai Samarth Developers. Respondent

- 1) "Shreenath Nagar Phase I & II"
 - 2) "Shree Junneshwar Park"
 - 3) "Radha Nikunj Phase II"
 - 4) "Dwarka Nagari (Pisadevi)"
- Unregistered Projects

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

Appearance :- Adv. Vishal Bagdiya for Respondent.

ORDER

1st March, 2024
(Through Video Conferencing)

1. MahaRERA has issued show cause notice, dated 23.11.2023 to the Respondent-Promoter as to why penalty should not be imposed upon him under Section 59 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016") for publishing advertisement of his real estate projects (1) "Shreenath Nagar Phase I and II", situated at Gat No.255/267, Near Zalta Phata Aadgaon, Tal. & Dist. Chhatrapati Sambhaji Nagar, (2) "Shree Junneshwar Park", situated at Gat No.177, 178, Varud Kaji, Tal. & Dist. Chhatrapati Sambhaji Nagar, (3) "Radha Nikunj Phase II", situated at Gat No. 183, Shendra (J), near Iscon Temple, Tal.& Dist. Chhatrapati Sambhaji Nagar and (4) "Dwarka Nagari (Pisadevi)", situated at Gat No.77/78, behind Janki Lawns, Dnyanada School-Pokhari Road, Pokhari, Tal.& Dist. Chhatrapati Sambhaji Nagar in daily newspaper "Lokmat" on dt. 24.10.2023 without registering the same with MahaRERA, and thereby violating the provision of Section 3 of the Act, 2016.

2. In pursuance of the aforesaid show-cause notice, Respondent-Promoter has filed his reply, dated 12.02.2024. The respondent has contended that the project is plotting project wherein layout permission and N.A. order has been granted by the competent authority prior to publication of the impugned advertisement. The respondent has furnished the table comprising the name of village, Gat No., owner's name, area under development, date of N.A. order and date of final layout order granted by the competent authority. The respondent has further contended that as per the G.R. issued by the Authority, the respondent has complied with all the necessary formalities and therefore, prayed to withdraw the notice.
3. Adv. Mr. Vishal Bagdiya for respondent appeared in the matter. Heard Adv. Vishal Bagdiya on behalf of respondent. He has reiterated the contentions made out in the reply by the promoter. Adv.Mr. Bagdiya has submitted that the project has received N.A. order and final layout approval, except land bearing Gat No. 267 of village Adgaon Budruk, which is inadvertently mentioned in the impugned advertisement and the promoter is neither owner nor in possession or is in any way concern with the said land Gat No. 267. According to Adv. Mr. Bagdiya, since the promoter has received the N.A. order and final layout permission prior to publishing the impugned advertisement, there is no any breach on the part of the promoter as per the Circular No.25/2019 and 25A/2023 issued by MahaRERA Authority.
4. Perused the impugned advertisement. It has been issued for aforesaid four projects. It has been mentioned in the said advertisement that said projects are of residential N.A. – 44 plots. Perused the 7/12 extract of land Gat No.255 of village Aadgaon Budruk, Tal. & Dist. Aurangabad, wherein the names of promoters Dnyaneshwar Rajaram Goje and Avinash Abarao Pawar have been shown in owner's column and area acquired by them is shown as 1H. 39 Are, out of total admeasuring 3 H. 54 Are. Also perused the N.A. order, dated 25.07.2023 issued by Tahsildar, Aurangabad. It has been issued under Section 42-B of the Maharashtra

Land Revenue Code, 1966 (hereinafter referred as "the Code, 1966) on certain terms and conditions mentioned therein, for the land admeasuring 13900.00 sq. mtrs. out of land Gat No.255 of village Adgaon Budruk, Tal. & Dist. Aurangabad. Also perused the final layout approval, dated 18.11.2023 issued by the Metropolitan Planner, Chhatrapati Sambhaji Nagar Metropolitan Regional Development Authority in respect of the said land Gat No.255 of village Adgaon Budruk, Tal. & Dist. Aurangabad. Also perused the 7/12 extracts of land Gat No. 177 & 178 of village Varu Kaji, Tal. & Dist. Chhatrapati Sambhaji Nagar. The name of owner Kalpana Dnyaneshwar Goje for land admeasuring 00 H. 35.30 Are out of total admeasuring 1 H. 60 Are of land Gat No. 178 and names of owners Avinash Abarao Pawar and Dnyaneshwar Rajaram Goje for land admeasuring 00 H. 20.62 Are and 00 H. 32.77 respectively out of land bearing Gat No. 178 total admeasuring 1 H. 05 Are of village Varud (Kaji), Tal. & Dist. Chhatrapati Sambhaji Nagar have been shown in owners column. Tahsildar, Aurangabad has issued N.A. order/Sanad dated 09.11.2022 under Section 42-B of the Code, 1966.Final layout approval has also been issued by the Metropolitan Planner, Chhatrapati Sabhaji Nagar, Metropolitan Regional Development Authority on 24.03.2023.

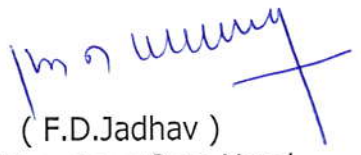
5. The N.A. order/Sanad dated 21.10.2022 further shows that it has been issued by the Tahsildar, Aurangabad under Section 42-B of the Code, 1966 for the land admeasuring 3600 sq. mtr. and 2450 sq. mtr. respectively out of land Gat No. 183 of village Shendra Jehangir, Tal. & Dist. Aurangabad. Final layout approval has also been issued by the Metropolitan Planner, Chhatrapati Sabhaji Nagar, Metropolitan Regional Development Authority on 04.11.2022 for the said land. Also the N.A. order/Sanad dated 19.05.2023 shows that it has been issued by the Tahsildar, Aurangabad under Section 42-B of the Code, 1966 for the land admeasuring 3443.00 sq. mtr. out of land Gat No. 77 and 78 of village Pokhari, Tal. & Dist. Aurangabad. Final layout approval has also been issued by the Metropolitan Planner, Chhatrapati Sabhaji Nagar, Metropolitan Regional Development Authority on 31.05.2023 for the said land.

6. Maharashtra Real Estate Regulatory Authority (hereinafter referred to as 'MahaRERA') has issued Circular No. 25/2019, dated 11.10.2019 regarding clarification in respect of registration of agreement for sale/sale-deed for real estate projects. It has been mentioned in the said circular in regards to real estate projects that are excluded from MahaRERA Registration. Para 1 of said Circular deals with "Real estate projects that are excluded from MahaRERA Registration". Serial No.3 therein specifically states that real estate projects where promoter has received completion certificate/occupancy certificate/N.A. order (in case of plotted development) from competent authority, any time before agreement for sale/sale-deed registration, are excluded from MahaRERA registration (emphasis supplied). In other words, real estate project where promoter has received completion certificate/occupancy certificate/N.A. order in relation to plotted development prior to the date of advertisement, the said project can be said to be exempted from MahaRERA Registration. MahaRERA has issued another Circular No. 25A/2023, dated 09.06.2023 regarding real estate projects that are excluded from MahaRERA Registration. This circular supplements circular No.25/2019, dated 11.10.2019 regarding serial Nos.1 and 2 enumerated therein. However, Serial No.3 in the earlier circular, dated 11.10.2019, remained unchanged and still in force till the date. The impugned advertisement has been published by the promoter in daily newspaper "Lokmat", dated 24.10.2023 viz after receiving N.A. order. Therefore, considering Serial No.3 from circular No.25/2019, dated 11.10.2019, it can be said this project squarely falls within the scope of serial No.3 of Para 1 and consequently this project need no registration as it has already received N.A. order, final layout permission etc. from Competent Authority prior to publishing advertisement.

7. Considering the N.A. orders issued by Competent Authority for all projects prior to issuance of impugned advertisement and the provisions of the Act, 2016 it can be said, no case is made out against the respondent-

promoter for violation of Section 3 of the Act, 2016. There is no iota of evidence to prove that this respondent has breached the Section 3 of the Act of 2016. Under these circumstances, Section 59 of the Act of 2016 cannot be invoked in the matter. Consequently, the penalty under Section 59 of the Act, 2016 cannot be imposed in the present matter.

8. The matter therefore, stands disposed off without imposing any penalty.


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