

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

**SUO MOTU ADVERTISEMENT/  
PUNE CASE NO.65 OF 2023**

MahaRERA on its own Motion .... Complainant

Versus

Yash Constructions .... Respondent

Chhatrapati Sambhaji Park - Tulapur  
Unregistered Project.

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

**Appearance :- Absent**

**ORDER**

25<sup>th</sup> October, 2023

(Through Video Conferencing)

1. Maharashtra Real Estate Regulatory Authority has delegated certain powers on me on dated 26.04.2023 under Section-81 of the Real Estate (R & D) Act, 2016 (hereinafter called as "Act 2016"). The said powers, inter alia, contains imposing of penalty under Section 59 of the Act, 2016 for contravention of the provision of Section 3 by the promoter and to impose penalty under Section 61 of the Act for contravention of Section 11(2) of the Act etc. In exercise of the said powers delegated to me under Section 81 of the Act, 2016, notices were served to the Respondent-Promoter. But promoter remained absent though reasonable opportunity of being heard is given to him.

2. MahaRERA Authority through 'source complaint' came to know that the respondent-promoter has issued an advertisement in respect of his real estate project by name, "CHHATRAPATI SAMBHAJI PARK", situated at Gat No.187, Tulapur-Nagarman Vasti, Opp. Khandoba Mandir, District Pune without registering the same with MahaRERA. The said

advertisement is silent as to whether the said real estate project is registered or not with MahaRERA. Therefore, on going through the record of MahaRERA, it has been found that the project of the Respondent is not registered with MahaRERA, as mandatory under Section 3 of the Act 2016. Therefore, by Show Cause Notice, dated 10.07.2023, the Respondent-Promoter was called upon to show cause as to why penal action under Section 3 r.w. 59 of the said Act should not be initiated against him. However, promoter has failed to file his reply to said show cause notice.

3. Later on notice of hearing, dated 04.08.2023 was issued to the respondent-promoter by post. The postal track report shows that on 07.08.2023 the notice was not delivered due to "Door Locked" and it was onhold at the concerned post office and intimation to the addressee was served. The said notice was onhold by concerned post office till 19.08.2023. However, though intimation was given to the addressee i.e. respondent-promoter to collect the same from the post office, nobody from respondent-promoter collected the same from the concerned post office and therefore, the said notice was returned on the ground of validity period exceeded. Therefore, again second notice of hearing, dated 30.08.2023 was sent to the respondent-promoter and the postal track report shows that it was delivered to the respondent-promoter on 31.08.2023. However, the respondent did not attend the physical hearing fixed on 22.08.2023 as well as on 10.10.2023. In spite of sufficient opportunity of being heard is given, the promoter remained absent on the multiple dates of hearing and therefore, the matter was adjourned to 25.10.2023 for exparte order.

4. Perused the advertisement. The name of the project is mentioned as "CHHATRAPATI SAMBHAJI PARK". It further contains the comment on the post published by one Vijay Rajaram Tapkir, that after a long period due to lockdown, he has received an opportunity to drive tractor on his plotting project Chhatrapati Sambhaji Park, Tulapur. In the advertisement



it has been mentioned that 1 to 4 Gunthas developed bungalow plots. It explicitly indicates that the project is a plotted project. The said advertisement further contains that the rate is mentioned as Rs.6,99,000/- per Guntha and its location is mentioned therein and further it has been mentioned that it is proposed R-Zone. The respondent did not appear in this matter. He had an opportunity to prove that the said lands are agricultural lands by filing documents in support of that. But since there is no rebuttal on the part of respondent (as he remained absent), it has to be presumed that the said land is not agricultural land.

5. Section 3 of the Act 2016 deals with prior registration of real estate project with Real Estate Regulatory Authority. The said Section 3 reads as under :-

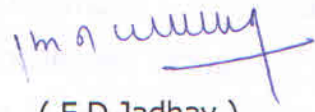
**"3.(1) – No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act;**

6. From the plain reading of Section 3, it is clear that the promoter is under obligation not to advertise, market, book, sell or offer for sale or invite persons to purchase any plot etc. without registering real estate project with MahaRERA. However, in the present case, promoter had published an advertisement without registering the project with MahaRERA. Therefore, it can be said this promoter has violated the provision of Section 3 of the Act of 2016.

7. In this matter, it is proved that this promoter had published advertisement. It is also proved that the impugned project was/is not registered with MahaRERA. Therefore, taking into consideration the facts

and circumstances of the present case and failing the promoter to appear and defend his case, it can be said that this promoter is in clear violation of Section 3 of the Act of 2016.

8. Considering the facts *vis-a-vis* law discussed hereinabove, it can be said that it has been proved beyond doubt that the promoter has violated the provision of Section 3 of the Act, 2016 for publishing the advertisement without registering the project with MahaRERA.
9. Therefore, it is hereby directed that a written communication be sent to the concerned Planning Authority for the purpose of ascertaining whether the promoter has obtained any requisite authorization for the aforementioned project, and no additional authorization shall be granted for the said project until such time the aforementioned project has been duly registered with MahaRERA or obtains full occupancy certificate/completion certificate or N.A. order from competent authority. Moreover, it is directed that the concerned Registration and Stamp Office shall be instructed to abstain from registering any sale agreements within the said project, until such time as the project is duly registered with MahaRERA Authority or obtains full completion certificate or N.A. order from competent authority.

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