

BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
CORAM : Shri. JAYANT B. DANDEGAONKAR, DEPUTY SECRETARY, PUNE

SUO MOTU ADVERTISEMENT/PUNE CASE NO. 13 OF 2025

MahaRERA on its own Motion

... Complainant

Versus

JAYKUMAR CONSTRUCTIONS LTD.

... Respondent-Promoter

NAME OF THE PROJECT – PARKSYDE NEST PHASE 3A.

Maharera Real Estate Project Registration No. P51600033065

Appearance :- Mr. Marzyan Patel, Director of Respondent-Promoter

ORDER

27th MARCH, 2024
(Through Video Conferencing)

1. MahaRERA Authority by its Office Order No.MahaRERA/Secy/DoP/Advertisement/41/2025, dated 16th January, 2025 has delegated powers to the undersigned to issue show cause notice in case of violation by the promoters under Section 3(1), 11(2) of the Real Estate (Regulation And Development) Act, 2016 (hereinafter referred to as **the RERA**), MahaRERA Order No.46/2023, dated 29.05.2023 read with MahaRERA Order No.46A/2023, dated 25.07.2023; and to pass orders on the show cause notice after considering the reply submitted by promoters to show cause notice and after granting personal hearing to promoters; and impose penalty under Section 59, 61 and 63 of the RERA. Powers are also delegated to the undersigned to issue show cause notices and such further notices to the real estate agents for violation by real estate agents of the provision of Section 10(a) of the RERA/or Rule 14 of Maharashtra Real Estate (Regulation and Development)(Registration of real estate projects, Registration of real estate agents, rates of interest and disclosures on website) Rules, 2017 (hereinafter referred to as **the Rules**) and MahaRERA Order No.46B/2023, dated

21.08.2023; to pass orders on the show cause notices as issued after considering the reply submitted by real estate agents to the show cause notice and/or after granting personal hearing to the real estate agents; and to impose penalty under Section 62 of the Act for violation of Section 10(a) of the Act and Rule 14 of the Rules and under Section 65 of the Act for violation of MahaRERA Order No.46B/2023, dated 21.08.2023.

2. The Advertising Standards Council of India (ASCI) has issued an **intimation letter, dated 18.10.2024** to the respondent and thereby informed that the advertisement published by the respondent on **INSTAGRAM** in respect of a real estate project under the name "**PARKSYDE NEST PHASE 3A**" does not contain **MahaRERA Website Address and detectable QR Code** and the same is considered to be prima facie in contravention of Real Estate (Regulation & Development) Act, 2016. ASCI has further directed the respondent to ensure that the said advertisement has to be modified or withdrawn no later than **October 29, 2024**.
3. Since the respondent has not complied with the directions issued by the ASCI vide aforesaid intimation letter, the ASCI has referred the matter to MahaRERA, Pune for initiating the suo-motu complaint/proceeding against the respondent for disposal according to law.
4. Perused the impugned advertisement. It does not contain **MahaRERA Website Address and detectable QR Code**, as alleged in the aforesaid intimation letter issued by ASCI. Therefore, it prima-facie discloses violation of provisions of Section 11(2) of the RERA and contravention of the MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023 on the part of the respondent-promoter. Therefore, notice of hearing, dated 21.01.2025 was sent to the respondent-promoter directing him to attend virtual hearing before this Authority and to make submissions, if any, as to why penal action should not be taken against him.

5. In response to the notice of hearing, Respondent-promoter has filed his say dated Feb.14, 2025 wherein it has been contended that he has understood the technical issue and increased the size of the QR Code and will increase the size of the QR Code in future advertisements and the old advertisement has been taken down. That so far as the charge in the notice regarding not containing MahaRERA website address, the respondent-promoter has not at all contended anything in his say.
6. Mr. Merzyan Patel, Director of the Respondent-Promoter appeared on behalf of the Respondent and reiterated the same contentions raised out by the respondent in his say. Initially it was argued on behalf of respondent-promoter that respondent has not received any notice from ASCI. Therefore, clarification from ASCI was called and ASCI has issued clarification that the intimation letter was sent to the respondent-promoter to the registered email address along with three additional email addresses.
7. The charge against the respondent-promoter is that by publishing the impugned advertisement without containing MahaRERA website address and without displaying detectable QR Code, he has violated provisions of Section 11(2) of the RERA and also contravened the directions issued in MahaRERA Order No.46/2023, dated 29.05.2023 and MahaRERA Order No.46A/2023, dated 25.07.2023.
8. Section 11(2) of the Act, 2016 reads as under :-

"Section 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."

9. Perusal of the impugned advertisement, shows that it does not contain MahaRERA website address, as required under the aforesaid provision. The respondent in his reply has not stated anything for not containing the MahaRERA website address in the impugned advertisement. Therefore, the charge against the respondent that the impugned advertisement does not contain MahaRERA website address has been proved.

10. By MahaRERA Order No. 46/2023, dated 29.05.2023, MahaRERA has issued following directions to the promoters.

- The promoter shall prominently display QR Code on each and every real estate project promotion/advertisement published after "1st August, 2023".
- The QR Code must be published in a manner that is legible, readable, and detectable with software application.
- The QR Code must be published besides the MahaRERA Registration Number and the Website address.

The mediums of the promotion/advertisement have also been described in the said Order.

11. The purpose and object for issuing directions by the MahaRERA Authority by MahaRERA Order No. 46/2023 is to bring greater transparency through disclosure of information on regular basis for public viewing, through online portal ensuring that maximum required information is available for public viewing in the most feasible manner, thereby empowering homebuyers/allottees to make informed choice/decisions in the ever-changing real estate market. The impugned advertisement though contains the QR Code, it was not legible, readable, and detectable. Therefore, the very purpose of issuing QR Code to the real estate project by the MahaRERA to empower the homebuyers to collect the information of the said project. Moreover, though the respondent-promoter in his say has stated that the old advertisement has been taken down and now they increased the size of the QR Code, it was complied beyond the timeline given by the ASCI. Considering the aforesaid directions by ASCI vide their intimation letter and the voluntary

admission by the respondent-promoter, it can be said that the promoter has failed to modify/withdraw the impugned advertisement within the timeline given by the ASCI.

12. MahaRERA has further issued directions vide MahaRERA Order No.46A/2023, dated 25.07.2023, whereby penalty which may be extended up to Rs. 50,000/- subject however to a minimum penalty which shall not be less than Rs. 10,000/- is to be imposed under Section 63 of the Act, 2016 against the promoter who fails to comply with the directions issued by MahaRERA Order No.46/2023.
13. Considering the aforesaid evidence and the impugned advertisement on record, the charges levelled against the respondent-promoter apparently proved and therefore, this is a fit case to impose penalty against the respondent under Section 61 for violation of provision of Section 11(2) of the RERA and also to impose penalty under Section 63 of the RERA for contravention of the directions issued under MahaRERA Order No. 46/2023, dated 29.05.2023 read with Section No.46A/2023, dated 25.07.2023
14. Penalty of Rs.10,000/- under Section 61 of the Act, 2016 has been imposed against the respondent-promoter for violation of Section 11(2) of the RERA Act, 2016.
15. Further Penalty of Rs.10,000/- under Section 63 of the Act, 2016 has been imposed against the respondent-promoter for contravention of the directions issued by the MahaRERA Authority by Order No.46/2023, dated 29.05.2023 read with Order No.46A/2023, dated 25.07.2023.
16. The aforesaid penalty shall be payable by the respondent within 15 days from the date of enforcing penalty, failing which respondent shall be liable to penalty of Rs.1000/- per day, in addition, till the compliance.

17. 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.
18. Thus in the light of aforesaid facts, documents on record and the legal provision, the present matter is disposed off accordingly.

(JAYANT B. DANDEGAONKAR)
DEPUTY SECRETARY
MahaRERA, PUNE