

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY**

**CORAM : SHRI JAYANT B. DANDEGAONKAR, DY. SECRETARY, PUNE**

**SUO MOTU ADVERTISEMENT/PUNE CASE NO. 128 OF 2024**

MahaRERA on its own Motion .... Complainant

Versus

1. K Saraf Realtors LLP .... Respondent-Promoter

2. 99acres.com (Info Edge [India] Ltd.) .... Respondent-Real Estate Agent

NAME OF THE PROJECT : "URBAN ELEMENT"

**MahaRERA Project Registration No.P52100055141**

**Appearance :-**

Mr. Rahul Saraf, partner of Respondent-Promoter

Adv.Devashish Godbole & Mr. Ayush Bhatia for 99acres.com

**ORDER**

20<sup>th</sup> FEB. 2025

(Through Video Conferencing)

1. MahaRERA Authority by its Office Order No.MahaRERA/Secy/DoP/Advertisement/41/2025, dated 16<sup>th</sup> 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 18.06.2024** to the respondent and thereby informed that the advertisement published by the respondent on **Website** in respect of a real estate project under the name **"URBAN ELEMENT"** does not contain **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 been modified or withdrawn no later than **June 27, 2024**. Therefore, the present proceeding has been initiated against the respondent-promoter after perusal of the documents referred by ASCI including the impugned advertisement and in delegation of the powers to the undersigned vide the aforesaid Office Order, dated 16.01.2025.
3. On minute perusal of the impugned advertisement, it transpires that it does not contain QR Code. Accordingly, notice of hearing, dated 06.08.2024 has been served to the respondent-promoter and opportunity of being heard was given to him.
4. In response to the said notice of hearing, dated 06.08.2024, respondent-promoter has filed his reply, dated 14<sup>th</sup> August, 2024 wherein he has taken defence that the email issued by ASCI has not been delivered on his email address directly on 18.06.2024 due to unknown reasons. The respondent-promoter has further contended in his reply that the mail reply

from 99 Acres mentioned that against the said complaint received for "QR Code missing from the online advertisement" on their website, they have taken necessary action and that the QR Code on the XID page has been updated. The respondent-promoter has further contended that on 12.07.2024 ASCI by its reply directed to [services@99acres.com](mailto:services@99acres.com) with CC marked to [ksr@ksaraf.in](mailto:ksr@ksaraf.in) claiming that the objected advertisement still appears without QR Code. It is further contended that on the same day 99acres replied that "QR Code is attached to this XID and visible on the website post clicking on View QR Code Option. The respondent-promoter has contended that same day he immediately intimated to 99acres to update QR as per MahaRERA requirement or withdraw the advertisement on or before 12<sup>th</sup> July, 2024. The respondent-promoter contends in his reply that editing or removing the advertisement is beyond its technical control, hence any implications arising upon it due to non-adherence would be directly implicating upon 99acres legally. The respondent-promoter has further contended that on 15<sup>th</sup> July, 2024 ASCI has replied that it has noted the modification in the said advertisement by adding the required details however, the objected advertisement link still appears without a QR Code. The respondent-promoter thereafter has forwarded the email from ASCI to 99acres and urged them to remove advertisement with immediate effect. The respondent-promoter has further contended that there was no existing contract between the respondent-promoter and 99acres and contract period was from 20<sup>th</sup> March,2024 to 17<sup>th</sup> June,2024 and hence 99acres was paying no attention to its request to remove the advertisement so at least by persuading 99acres, respondent-promoter made sure that 99acres changes the complete photos in the advertisement and ensured that the QR Code is visible on the first page itself. Lastly, respondent-promoter has prayed not to implicate it for the violation of MahaRERA regulation and absolve it from the matter.

5. Upon receipt of reply from the respondent-promoter, MahaRERA has issued a notice to 99acres.com i.e. respondent-agent on 16.08.2024. Respondent-agent has submitted his reply dated 12.09.2024. Respondent-

agent has contended that vide email dated 24.06.2024 it has informed ASCI that the QR Code has been updated ahead of given deadline of 27.06.2024. The respondent-agent has contended that on 12.07.2024 it has received email from ASCI stating that the directives have not been complied. The respondent-agent has replied to the said email on the same day and informed ASCI that QR Code is indeed visible on the website after selecting the "View QR Code" option.

6. Arguments on behalf of respondent-promoter through Mr. Raul Saraf, partner and Adv. Devashish Godbole on behalf of respondent-agent have been heard. Both the parties have reiterated the contentions raised out by them in their respective reply. However, during the hearing, Mr. Rahul Saraf fairly admitted that the QR Code was not prominently displayed in the impugned advertisement and it was not modified or removed on or before the timeline given by ASCI.
7. MahaRERA Order No.46/2023, dated 29.05.2023 directs the promoter to display/publish the QR Code beside the MahaRERA Registration number in a legible, readable and detectable with the software application on each and every project promotion/advertisement published after 1<sup>st</sup> August, 2023 in the mediums described in the said Order.
8. Perused the impugned advertisement. Though the defence has been taken by the respondent-agent that it has modified the advertisement before the deadline given by ASCI and QR Code was visible on the website after selecting the "View QR Code" option, it has been clarified by ASCI by their email , dated 07.10.2024 to this office that due date to respond the intimation letter was June 27,2024 and the respondents have responded to ASCI after the given timeline, but the revised advertisement was inappropriate because the QR Code was missing. ASCI has further clarified that till 15<sup>th</sup> July,2024 the respondents have not complied as per intimation letter. Therefore, the defence taken by the respondents that they complied the intimation letter dated 18<sup>th</sup> June, 2024 is not probable and cannot be

acceptable. Further the respondent-promoter has not produced on record any document to show that on the date of publishing the advertisement, it has no existing contract with the respondent-agent. Moreover, during the hearing before this Authority, respondent-promoter has fairly admitted that he has consented for publication of the impugned advertisement. From the evidence on record, it can be safely inferred that by publishing the impugned advertisement which does not display QR Code beside the MahaRERA Registration number in a legible, readable and detectable manner with the software application, thereby the respondent-promoter has contravened the directions issued by the MahaRERA Authority vide Order No. 46/2023, dated 29.05.2023.

9. MahaRERA Order No.46A/2023, dated 25.07.2023 prescribes the amount of penalty for violation of the directions issued in the MahaRERA Order No. 46/2023, which may extend up to Rs. 50,000/- subject however to a minimum penalty which shall not be less than Rs. 10,000/- under Section 63 of the Act shall be imposed upon promoters for each such violation.
10. Therefore, I am of the opinion that the charges leveled against the respondent-promoter in the notice of hearing are proved beyond the doubt. Therefore, penal provision under the RERA as mentioned above are to be invoked in this matter.
11. 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.
12. The aforestated 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.

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.

Pune

Date :- 20.03.2025

(JAYANT B. DANDEGAONKAR)

DEPUTY SECRETARY, MAHARERA

PUNE