

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY**

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

**SUO MOTU ADVERTISEMENT/PUNE CASE NO. 152 OF 2024**

MahaRERA on its own Motion

.... Complainant

Versus

Jayesh Ratilal Shah

.... Respondent

"Five Bless Elanza"

**MahaRERA Project Registration No.P52700027309**

**Appearance** :- Absent

**ORDER**

25<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 17.07.2024** to the respondent and thereby informed that the advertisement published by the respondent on **PROPERTY PORTAL** in respect of a real estate project under the name **"FIVE BLESS ELANZA"** does not contain **MahaRERA website address and 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 **July 26, 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 MahaRERA website address and QR Code. Accordingly, notice of hearing, dated 26.08.2024 has been served to the respondent-promoter and opportunity of being heard was given to him. The Respondent-Promoter though served with the notice of hearing on his e-mail address registered with MahaRERA, failed to appear on the dates fixed for virtual hearing i.e. 10.09.2024, 27.09.2024, 15.10.2024, 19.11.2024, 17.12.2024, 10.01.2025 and 14.02.2025. Sufficient opportunity of being heard was given to the respondent/promoter to defend the charges levelled against him in the notice of hearing. Therefore, an exparte order is being passed today in this case.

4. Section 11(2) of the RERA mandates the promoter to prominently mention website address of the Authority containing all details of the registered project including Project Registration Number obtained from the Authority and such other matters incidental thereto.
5. 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.
6. The impugned advertisement does not indicate MahaRERA website address, which definitely contravenes the provisions of Section 11(2) of the RERA. It also does not display the QR Code, which also contravenes the directions issued by the MahaRERA Authority vide Order No. 46/2023, dated 29.05.2023. Therefore, it can be safely inferred that the Respondent-Promoter has published the impugned advertisement without prominently mentioning the MahaRERA website address containing all details of the registered real estate project, registration number of the project and all incidental matters thereto and contravened the legal provision under the RERA. It can also be inferred safely that the respondent-promoter has not displayed the QR Code in the impugned advertisement and violated the directions issued by the MahaRERA Authority.
7. Contravention of the penal provision Section 61 of the RERA prescribes penalty which may extend up to five per cent, of the estimated cost of the real estate project as determined by the Authority.
8. 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.

9. Therefore, I am of the opinion that the charges leveled against the respondent-promoter in the notice of hearing are proved beyond the reasonable doubt. Therefore, penal provision under the RERA as mentioned above are to be invoked in this matter.
10. Penalty of Rs.10,000/-has been imposed against the respondent-promoter under Section 61 of the Act, 2016 for violation of the provision of Section 11(2) of the Act, 2016.
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. Both the aforesated penalties 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 :- 25.02.2025

(JAYANT B. DANDEGAONKAR)

DEPUTY SECRETARY, MAHARERA

PUNE