

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

Virtual Hearing held through video conference as per
MahaRERA Circular No.: 27/2020

Complaint No.CC006000000408327

Shafiahmed Hakim Janjali
Being authorised partner of
M/s. Goodwill Developers & Consultant

..Complainant/s

Vs

Bonzer Infra Private Limited
Through its director Shailesh Narsinh Patel

..Respondent/s

MahaRERA Project Registration No. P52000049036

O R D E R

(10.06.2025)

(Date of Hearing:14.05.2025)

Coram: Shri. Ravindra Deshpande, Member-II, MahaRERA

Adv. Parth Chande for Complainant/s

None for Respondent/s

1. The complainant has filed the present complaint requesting to direct the respondent to revoke the construction and registration of the project viz. SILVRA ONE in RERA. Further, respondents be restrained from creating 3rd party right over the said land.
2. In short the facts of the complaint are as follows:
3. It is contention of the complainants that they are land owners of plot no. 1 Survey no. 23/1A, 23/1B, 23/2 adm. 3947.74 sq. mtr. denoted by CTS no. 1420/A-1 and 1421 at Takai Khalapur, Dist. Raigad. Vide agreement for sale dated 11.06.1990 the complainants have agreed to acquire the rights, title and interest in the abovesaid land from two joint owners Kashinath Laxman Vange and late Damodar Kamlakar Zemse. The respondent is the promoter of RERA project registration No. P52000049036 situated at plot no. 1 Survey no. 23/1A,

23/1B, 23/2 adm. 3947.74 sq. mtr. denoted by CTS no. 1420/A-1 and 1421 at Takai Khalapur, Dist. Raigad. The above said lands called as said land hereinafter in the present order.

4. Kashinath Laxman Vanage illegally and unlawfully executed an illegal conveyance dated 29.12.2012 conveying the said land in favour of the respondent despite having agreed to sell, transfer and assign the said land in favour of the complainants. In view of the said, illegal conveyance the complainants have filed the Civil Suit before the CJSD, Panvel bearing special Civil Suit NO. 351/2013 against the original owners and respondent for the specific performance of registered agreement for sale dated 11.06.1990. By virtue of which the said land alongwith other land were agreed to be sold to the complainants by the said original owners.
5. The Panvel court on 05.08.2016 has passed stay order and injected the respondent herein from creating any third party interest as well as from developing the said land. The respondent has breached the said order and is in contempt of court order and has initiated construction of the project SILVRA ONE on the said land. The respondent has not only initiated the construction on the said land also registered the same in RERA bearing registration no. P52000049036 and obtained commencement certificate on 03.11.2022 from the competent Authority. The respondent has neither disclosed about the pending litigation nor have informed about the status quo order in the said litigation. As per title report, dated 05.01.2023 of the said project, given by Adv. Jallawar uploaded on MahaRERA website where with malafide intention the respondent has concealed the legal encumbrances in the said title report, therefore, the complainants have addressed a letter to Adv. Jallawar with respect to Civil Suit filed before the Panvel Court bearing spl. Civil suit no. 351/2013. That vide reply dated 06.01.2023 Adv. Jallawar has withdrawn the said title report and also addressed the same to MahaRERA.

6. The respondent is in violation of RERA rules by suppressing the facts from RERA and also breach of the stay order passed by the Panvel Court by constructing and registering the said project. The said project is void - ab - initio and hence, it is prayed that the same may be revoked on the grounds of breach of stay order passed by Civil Court, Panvel.
7. The respondent appeared and filed its reply and contended that the contents, pleadings, averments and allegations of the complainants in para no. 1 to 9 of the complaint including the prayer clauses of the complaint, denied by the respondents. The complaint filed by the complainants u/s 31 of RERA Act is not maintainable, deserves to be dismissed. The complainants are neither aggrieved party nor an allottees or a promoters and how the misquoted provision of Section 31 of RERA Act is applicable to the facts and circumstances set out by the complainants in the complaint, when the complainants are not covered by any of the definition of RERA Act. This Authority does not have jurisdiction to decide the complaint with averments and allegations therein for the reasons that there is no provision in RERA Act, which empowers this Authority to entertain a complaint which arises from all at the instance of third party nuisance creators like the complainants.
8. The complainant's complaint does not remote nexus with the registered project of the respondent and as such complaint is liable to be dismissed in limine as the same is not maintainable. The sum and substance of the complaint filed by the complainant is that they have the so called rights in respect of which they have already filed special civil suit No. 351/2013 in the Court of Civil Judge, Sr. Divn. at Panvel and claimed relief of declaration of agreement dated 11.06.1990, cancellation of conveyance deed of 2012, injunction and other reliefs against this respondent and others which is subjudice in the Panvel Court.
9. The Hon'ble Bombay High Court, while order dated 13.03.2024, passed in the Civil Rev. App. No. 149/2024 deferred the hearing of the Spl. civil suit no.

351/2013 till next date to enable Hon'ble High Court to determine the Civil Rev. Appl. no. 149/2024 filed by the respondent herein is subjudice before the Hon'ble High Court.

10. There is authoritative pronouncement and finding by the CJSD, at Panvel on the said allegation of the complainants regarding the alleged breach of the stay order passed below Ex.31 in Spl. Civil Suit no. 351/2013 u/s 9 (A) of Civil Procedure Code. The complainants have filed various applications before Sr. Divn. Panvel alleging the breach of stay order dated 05.03.2016 which is yet to be decided by the CJSD, Panvel. The complainants have filed application at Ex. 96 in Spl. Civil Suit no. 351/2013 under order XXXIX rule 11 and Ex.98 under order XI Rule 1 of the CPC for striking of the defence of the respondent and for appointment of receiver and both said applications till date are not decided and pending for adjudication. Pending herein the above mentioned applications, the complainants have filed application ex. 107 in Special Civil Suit no. 351/2013 under order XXXIX Rule 7 and Ex.109 under order 39 /XL of civil procedure code on 23.02.2024 and once again both the said application till date are not decided and pending for adjudication before CJSD, Panvel.
11. According to the respondent, Kashinath Laxman Vange along with Dr. Damodar Kamlakar Zemse had signed agreement for sale dated 11.06.1990 and same was registered the complainants did not comply with the said agreement dated 11.06.1990 and did not make payment of total consideration amount to the Kashinath Vange and Dr. Damodar Zemse as per clause no. 1 of the said agreement. Hence, the same was canceled by late Dr. Damodar Zemse with consent of the Kashinath Vange vide notice dated 22.03.1991, 19.11.1991 and 20.03.1992. The complainants failed to challenge the agreement for sale cancelation notices dated 22.03.1991, 19.11.1991 and 20.03.1992 and did not filed any suit for declaration and specific performance of the agreement for sale dated

- 11.06.19990 against Kashinath Vange and late Damodar Zemse within the period of three years about the said agreement for sale cancellation notices.
12. Dr. Damodar Zemse, the original owner of the said land expired on 02.03.2001 and his wife Radhabai expired on 15.06.2005. Dr. Damodar and his wife both died intestate. The name of legal heirs of Dr. Zemse, were recorded vide mutation entry no. 698 and 774 into the Revenue Record of the suit land. Thereafter, in view of the terms and conditions of the said agreement for sale dated 11.06.1990. Kashinath Vange with consent of the legal heirs of late Dr. Damodar Zemse, transferred Rs.20 lakhs in the account of the complainants by RTGS on 03.01.2008 from Kashinath Vange's bank account no. 11338360298 of SBI branch Pen in the account of complainants, in Corporation Bank UTR No. SBINH080033040. The copy of the certificate dated 08.04.2013 issued by Chief Manager, SBI Pen Branch in the name of Kashinath Vange and bank passbook of Kashinath Vange's bank account no. 11338360298 of SBI branch is at Ex. D.
13. The complainants after full and final settlement, amount of Rs.20 lakhs in lieu of token amount of Rs.2.10 lakhs from Kashinath Laxman Vanage. The said Kashinath Vanage purchased remaining balance 50% right, title, and interest of his co-sharer late Damodar Zemse of the land from legal heirs of Dr. Zemse, vide registered sale deed date 08.10.2011 and thus Kashinath Vange has become full owner of the said land. Kashinath Vange and his wife sold the said land for valuable consideration to the respondent i.e. Bonzer Infra Private Limited vide sale deed dated 29.12.2012, registered at sr. no. 530/2013.
14. The name of the respondent has been recorded in 7/12 extract of the said land as the owners and respondent have in continuous use possession and occupation of the said land. The complainants with mala fide intention and knowledge to extract money from the respondent, said Kashinath Vanage, filed FIR bearing No. 60/2013 with Khopoli Police Station against the respondent, Kashinath Vanage his wife and legal heirs of Dr. Zemse in which final B summary report

was filed and the same was rejected by JMFC Khalapur on 01.05.2015 and register RCC No. 24/2014 against Kashinath Vange, his wife, respondent and its employees.

15. After rejection of B summary report, the respondent's director and employees impugned the said order of rejection before Session Court at Raigad, Alibaug vide Criminal Rev. Application no. 82/2014. The same was partly allowed on 29.05.2015 and order dated 01.02.2014 of JMFC Khalapur was set aside and matter remanded back to JMFC Khalapur for getting clarification and opinion from the police with direction to hear amongst others the respondents in the said Criminal Rev. Application.
16. On the remand the JMFC Khalapur vide order dated 30.07.2015 cancelled RCC no. 24/2014 and called clarification from investigation officer regarding the roles of the accused other than Kashinath Vange and his wife. The complainants did not find success in extorting money from the respondent by misusing the criminal legal process hereafter the complainants filed on 29.08.2013 special civil suit no. 351/2013. Civil Judge Sr. Div. Panvel vide order 05.08.2016 below ex. 31 being application u/s 9A of CPC for framing preliminary issue pending herein and final disposal of application u/s 9A of the CPC for framing of preliminary issue order as under : The Preliminary issue be framed "whether the suit is within the limitation", "pending the hearing of preliminary issue defendant no. 7 restrained temporarily from creating third party interest in the suit property as well as from developing the suit property until further orders". The state of Maharashtra by amendment to Section 9A of the CPC w.e.f. Dt.27.06.2018 deleted the section 9A of CPC.
17. The complainant M/s. Goodwill Developers through its partner Shafi Ahmed Mrs. Rashida Janjali through their advocate in Sp. Civil Suit no. 351/2013 in writing dated 03.01.2020 on Ex. 5 expressed their resolve to prosecute Ex.5 with Spl. Civil Suit no. 351/2013. In virtue of writing dt. 03.01.2020, of complainant,

through their advocate on Ex.5 in Sp. Civil Suit no. 351/2013 the order below ex. 31 does not exist and continue from 03.01.2020 till date.

18. According to the respondent in pursuant of the Maharashtra State Amendment, 2018 deleting Section 9A of CPC and in view of insertion of non obstante Maharashtra Amendment Section 9 (4) of the CPC and writing dt. 03.1.2020 of the complainant through their advocate on Ex.5 in Spl. Civil Suit No.351/2013 the order below ex. 31 passed by the CJSD Panvel in the application filed by Dattatraya Damodar Zemse one of the legal heirs of Damodar Zemse u/s 9A of CPC granting above mentioned order cease the operate and exist against the respondent who is defendant no. 7 in Spl Civil Suit No.351/2013.
19. It is the contention of the respondent that respondent obtained construction permission on the plot no. 1 being CTS NO. 1420A/1 area 3947.74 sq. mtrs. Out of the total layout sanction and revised NA from the Chief Officer, Khopoli Municipal Council vide revised order dated 3.11.2022 for construction on the said land comprising survey no. 23/1A, 23/1, 23/2 CTS No. 1420/A and CTS No.1421 City survey no. 01. Total area adm. 27380 sq. mtr. Mouje Takal. The respondent exclusively owns, occupies and possesses the entire property as owner / developer and are absolutely entitle to develop and have, right and title in the said land and the project thereon registered with MahaRERA. The respondent is at present developing property mentioned in the registered project as per sanctions and permissions. The complainant had maliciously to threaten and pressurize the respondent and his Advocate Jallawar given notice dated 18.02.2023 to Adv. Jallawar. The respondent on 16.12.2023 obtained title certificate from Adv. Madhukar Dorkar and the same has been uploaded by the respondent on the MahaRERA site. Adv. Jallawar without making comment and without discussing on the issue of the legality of the order dt. 05.08.2016 below exhibit 31 from RCS special civil suit no. 351/2013 simpliciter withdrew the title certificate dated 05.01.2023 on 16.12.2023.

20. According to the respondent as per Section 2d of RERA Act, the complainant does not come within purview of definition of allottee and such the complaint is liable to be dismissed. The respondent has not sold any plot or apartment or building in the real estate project. Now known as Silvera One being constructed on the said property by the respondent with all necessary permissions from concerned local authority and therefore, there being no relationship allottee and promoter between the complainant and the respondent. Hence, this Authority has no jurisdiction to entertain the complaint, filed by the complainant.
21. According to the respondent, erstwhile land owner Kashinath Vanage has filed criminal case u/s 156(3) of CRPC for registration of FIR and investigation in the offenses committed by the complainants u/s 420, 182, 34 of Indian Penal Code in the court of JMFC, Khalapur, Raigad and the same is subjudice. The respondent filed civil revision application No. 149/2024 in the Hon'ble Bombay High Court challenging the order dated 29.09.2023 passed by the Ld. Trial Court in application below exhibit no. 88 being application under order VII Rule 11 of CPC in Special Civil Suit No. 351/2013. Hon'ble Bombay High Court vide order 13.03.2024 directed CJSD Panvel to defer the hearing of special civil suit no. 351/2013 until next adjourned date to enable the Bombay High Court to determine the Civil Revision Application No. 149/2024. The matter is subjudice before Hon'ble Bombay High Court. The said Civil Revision Application No. 149/2024 is filed for vacating the stay order dt. 13.04.2024. There is stay order dated 13.03.2024 of Hon'ble Bombay High Court and as matter could not reach on 30.4.2024, the stay order in the aforesaid CRA is automatically extended. When the Bombay High Court in Civil Revision Application No. 149/2024 is sized of the very maintainability of the Special Civil Suit NO. 351/2013 on the various grounds including rights and limitations and has by order dated 13.03.2024 has stayed all further proceedings in Special Civil Suit No. 351/2013 then the complainant cannot permitted to agitate the same in the above application filed u/s 31 of RERA Act, 2016 Rule 6 of RERA. The complainant

neither fall within the definition of the promoter as per Section 2(zk) of RERA nor is co-promoter nor owner of the property where the project is being constructed by the respondent with all the necessary and requisite permissions from the concerned competent authorities, Therefore, the present complaint deserves to be dismissed.

22. According to the respondent, there is no restraining order agitate the respondent from CJSD, Panvel, restraining the respondent from carrying out and completing development of the project now known as Silvera ONE. being registration No. P52000049036 or selling units, flats, shops in the aforesaid project. The respondent have uploaded title certificate dt. 15.12.2023 issued by Adv. M. D. Dorkar. There is no relation of allottee, the promoter and co-promoter between the complainant and respondent. The complainant cannot be permitted to misuse this Authority, and abuse the provision of the RERA Act, and Rules to file any frivolous proceedings like the above complaint. Hence, the above complaint deserves to be dismissed with exemplary cost to be saddle on the complainant.

23. The complainant has not filed rejoinder in this complaint. The matter was listed on 06.05.2025. The advocate of the complainant Mr. Parth Chande submitted that the RERA registration has been obtained by the respondent on the basis of false documents and by hiding material facts and information from this Authority. When respondent applied for the registration of the project, did not disclosed about the stay order of the Panvel Court. The stay is not only for creating third party interest but also for developing the suit property. At various disclosers on the MahaRERA website, the respondent says that there is no litigation no encumbrances in the project. MahaRERA granted registration on the basis of false declaration on 08.12.2023. The advocate of complainant wrote letter to advocate of respondent stating that respondent has not disclosed the pending litigation and above mentioned stay order in his title report. On

16.12.2023 the advocate of respondent withdrew his title report. The stay order is from August, 2016 but even today, the respondent claims that there is no order of the injunction. The RERA registration needs to be revoked and if not revoked the liabilities and loss would be suffered. Hence, the project registration is required to be revoked.

24. The advocate of respondent submitted that recently the complainant has filed the contempt proceeding before the Hon'ble Bombay High court and the same is withdrawn. There is no order of Civil Court or Hon'ble Bombay High court for breach of stay order. The Panvel Civil Court proceeding is stayed by the Hon'ble Bombay Court in Civil MA No. 149/2024 by order dated 13.03.2024. In Panvel Civil Court proceeding, the advocate of complainant consented that ex. 5 interim injunction application will be prosecuted alongwith the main plaint. There is no stay order. However, the advocate of the complainant submitted that stay order has been passed on Ex. 31 and same is still continue. Both parties were given liberty to upload their written arguments on or before 14.05.2025.

25. On 14.05.2025, advocate of complainant submitted that Maharashtra Government issued an ordinance in the year 2018, there is a saving provisions in the said ordinance, which specifies that all orders passed u/s 9(A) of CPC prior to deletion of Section 9(A) shall be considered as ad-interim order made under order 39 of CPC, hence, stay order in favour of the complainant passed on 05.08.2016 by the Civil Court, Panvel is valid and subsisting. It is further submitted that in the reply that, the respondent contended that stay order is not valid because of the letter dated 03.01.2020. The said letter is not produced by the respondent. The respondent admits that it is the case of the respondent because this letter stay order of 2016 is not in existence. The advocate of complainant submitted that complainant has submitted written arguments uploaded on MahaRERA website yesterday only, the respondent has not uploaded the same, hence, time till 16.05.2025 granted to the respondent to

upload the written arguments on MahaRERA website and thereafter, the matter reserved for order.

26. Considering the averments from the complaint and reply, following points arise for my determination. My findings thereon recorded as under for the reasons stated below:

REASONS

No.	Points	Findings
1	Whether it is just and necessary to revoke registration of the project Silvera One bearing registration No.P52000049036?	It is necessary that registration of the said project be kept in abeyance.
2	What Order?	As per final order.

Reasons as to point no. 1

27. The complainant has uploaded written argument on MahaRERA website on 13.05.2025. The respondent also uploaded written arguments on MahaRERA website on 18.05.2025. I have gone through the same. The complainant uploaded copy of application Ex. 31 from Special Civil Suit No.351/2013, alongwith order dt. 05.08.2016 and also uploaded copy of application dt. 24.11.2023 on behalf of complainant filed in the Office of MahaRERA. The complainant also uploaded copy of agreement dated 11.06.1990 between complainant and Dr. Damodar Kamlakar Zemse and Kashinath Laxman Vanage. Copy of sanction of building permission and commencement certificate dt 03.11.2022 issued by Khopoli Municipal Council. Copy of MahaRERA application submitted by the respondent, copy of legal title report dt. 05.01.2023 by Adv. Jallawar. Copy of letter dt. 16.12.2023 by Adv. Jallawar. Copy of Form B declaration supported by an Affidavit which shall be signed by the promoter, it

is of dated 04.01.2023 and it is declaration of M/s. Shailesh Narsinh Patel. Encumbrances certificate dt. 04.01.2023 by director of respondent.

28. The respondent has filed copy of Civil Revision Application No. 149/2024 and the order dt. 13.03.2024. The original copies of property extract and the digital property cards of the suit property (23/1A to 23/1A57). The copies of certificate dt 08.04.2013 issued by Manager, State Bank of India, Branch Pen in the name of Kashinath Vanage and the pass book of Kashinath Vanage. Photo copy of registered agreement to sell dt. 08.10.2011. The photo copy of registered sale deed dt. 29.12.2012. The photo copy of RCc No. 24/2014, B summary report dt. 01.05.2015. The photo copy of order and Judgement dt. 29.05.2015 passed by the Session Court, Alibaug in Criminal Revision Application No. 82/2014. The photo copy of order dated 30.07.2015 passed by JMFC, Khalapur in RCC No. 24/2014. The photo copies of Special Civil Suit No. 351/2013 of Ex. 1 and Ex. 5. The photo copy of say-cum-written statement of respondent in Special Civil Suit No. 351/2013. The photo copy of certificate of registration dt. 30.01.2023 issued by MahaRERA.
29. I have gone through the written arguments uploaded by the complainant. The complainant has repeated and reiterated facts from the complaint. It is mentioned in written argument that respondent deliberately failed to disclose the existence of multiple pending civil suit as well as a subsisting stay order dt. 05.08.2016 which prohibit the creation of third party rights and restrains construction activity on the project land. The respondent has submitted a false and misleading title report dt. 05.01.2023 to MahaRERA in order to obtain registration of the project. The said report was subsequently withdrawn by the advocate who issued the same. The said advocate clarified in his withdrawal communication that material facts particularly the pending civil litigation and subsisting stay order dt. 05.08.2016 had been deliberately concealed from him at the time of issuance of title report. Hence, there is violation of Section 4 which

mandates that the promoter must submit title report certifying that title is cleared and marketable. The respondent has obtained MahaRERA project registration based on misleading and false information, including the submission of documents that misrepresented the legal status of the project land.

30. It is further submitted that present complaint is maintainable u/s 31 of the Real Estate (Regulations and Development) Act, 2016 which entitles any aggrieved person to file complaint before the Authority for violation or contravention of any provision of the Act or rules and regulation made thereunder. The respondent has violated multiple provisions including section 4 of the Act and Rule 3 of the MahaRERA Rules, 2017, by suppressing material litigation, submitting false title certificate and fraudulently obtained RERA registration. The complainant is an aggrieved person within the meaning of Section 31, having suffered irreparable loss due to suppression of material facts by the respondent while applying for MahaRERA registration. The complainant's advocate in support of complainant's case relied upon MahaRERA order, in case of Antop Hill Warehousing Co. Ltd. vs. Neumec Builders and Developers. I have gone through the same in which MahaRERA directed respondent from the said complaint to upload the interim order dt. 14.11.2017 passed in Writ Petition No. 901/2017 on the webpage. They shall pay a penalty of Rs.5,00,000/- u/s 60 read with Section 4 of RERA.

31. Complainant's Advocate relied upon judgement passed by MahaRERA in Neha Prasad Padwal & ors Vs. M/s. CCI Project Pvt. Ltd. and another and contended that MahaRERA bench while deciding the said complaint held that the respondent shall pay penalty of Rs.10 lakhs for contravening and violating section 4 and section 11(4)(e) of RERA, 2016.

32. The advocate of respondent uploaded written argument and reiterated and repeated the facts from the reply. It is contended in the written argument that

complainant herein filed contempt petition No. 597/2024 before Hon'ble High Court against Kashinath Vanage and others and on 30.01.2025 withdraw the same. I have gone through the same which shows that Petitioners from said petition withdraw the contempt petition with liberty to adopt appropriate proceedings with regard to allegation of violation of interim injunction order dt.5.8.2016 reserving the liberty so prayed for contempt petition is permitted to be withdrawn and disposed of. It is contended that withdrawal of the title certificate under the reply letter dated 16.12.2003 of adv. Jallawar does not show that there is existence of the order dt. 5.8.2016 passed below Ex. 31 in Special Civil Suit No. 351/2013 or its breach by the respondent. According to the respondents they have disclosed and uploaded all litigations and orders of concerned courts in respect of the project Silvera One of the respondent on MahaRERA website. Hence, the allegations of the complainants is unfounded baseless, without iota truth and therefore the complaint is liable to be dismissed. There is no relation of allottee and the promoter between the complainant and the respondent and hence the complainant has no locus standi to file the complaint. The complainant has relied upon the order dt. 7.8.2018 in Antop Hill Warehousing Co. Ltd. Vs. Neumec Builders and Developers and the order of MahaRERA dt. 21.10.2020 in Neha Prasad Padwal and ors Vs,. CCI Projects Pvt. Ltd. and others. The same are not applicable to the present complaint, as the complainant is not an allottee of the respondent as the respondent has uploaded on MahaRERA website the status certificate, updated title certificate and mentioned the litigations in respect of the project of the respondent alongwith discloser of ordres of civil court as well as Bombay High Court on the website and nothing has been suppressed from MahaRERA as well as purchasers, therefore, complaint deserves to be dismissed with penal costs to be saddle on the complainant. Hence, lastly the respondent requested for dismissal of the complaint.

33. I have gone through the documents uploaded by both the parties. It is the contention of the complainant that the complainants are owners of the said land. Original owner of the said land Dr. Damodar Zemse and Kashinath Vanage agreed to sell the said land to the complainant and executed registered agreement for sale dt. 11.06.1990. According to the complainant, in the year 2013, the complainants filed special civil suit no.351/2013 against the original owners and respondent for the specific performance of registered agreement for sale dt. 11.06.1990 and in said suit, CJSD Panvel on 05.08.2016 has passed an stay order and injected the respondent herein from creating third party rights as well as from developing the said land. The respondent has breached the said order and has initiated construction of project Silvera One on the said land and also registered the same in RERA bearing registration no. P52000049036 and on 03.11.2022 obtained commencement certificate from competent Authority. The respondent not disclosed about the pending litigations nor have informed about the status quo order in the said litigation. Hence, it is contention and request of the complainant that respondent in violation of RERA rules, therefore, the project registered by the respondent may be revoked

34. However, it is contention of the respondent that the complainant does not remote nexus with the registered project of the respondent. The complainant is neither allottee nor aggrieved party or promoter hence, as per provisions of Section 31 of RERA Act, this Authority does not have jurisdiction to adjudicate the complaint with averments and allegations therein for the reasons that there is no provisions in RERA Act which empower the authority to entertain the complaint which arises at the instance of third party, nuisance creator like the complainant. The respondents has not disputed that complainant has filed Special Civil Suit No. 351/2013 in respect of the said land against Kashinath Vanage and others including the respondent for specific performance of contract which was executed on 11.06.1990 between the complainants and Dr. Damodar Zemse and Kashinath Vanage. The respondent has also admitted that the CJSD

on 05.08.2016 on Ex. 31 in Special Civil Suit No. 351/2013 passed order and restrained respondent from creating any third party right regarding the said land and developing the said land, however, it is contention of the respondent that they filed Civil Revision application No. 149/2024 before Hon'ble High Court and Hon'ble High court by its order 13.03.2024 defer the hearing of the Special Civil Suit No. 351/2013 pending before CJSd, Panvel to enable the High Court to determine the Civil Revision Application No. 149/2024,

35. It is also submitted on behalf of the advocate of the respondent that the complainant's advocate on Ex.5 i.e. injunction application from Special Civil Suit NO. 351/2013 marked endorsement that this application may be decided alongwith the suit, hence, it is submission of the respondent's advocate that order of CJSd, Panvel passed below ex. 31 i.e. application for framing preliminary issue of jurisdiction dt. 5.8.2016 through which CJSd, Panvel passed order that pending the hearing of preliminary issue defence no. 7 restrained temporarily from creating third party interest in the suit property as well as developing the suit property until further orders not remains in force as on ex. 5 the plaintiff who filed application ex. 5 for temporary injunction marked endorsement that the said application may be decided alongwith the suit. It is also contended in the reply and submitted at the time of argument by the respondent that agreement dt. 11.06.1990 which was executed between the complainants and original owners of the said land i.. Dr. Zemse and Kashinath Vanage by issuing notice by original owner of the said land to the complainants cancelled the said agreement and the complainants not challenged the said notices by filing appropriate proceedings and thereafter, Kashinath Vanage refunded amount of Rs.20 lakhs to the complainant in lieu of amount of Rs.2.10 lakhs. I have stated above that complainant neither filed rejoinder and denied the said contention of the respondent nor submitted anything during argument and complainant kept mum in regard to the same. It is contention of the respondent that the respondent has uploaded on MahaRERA website the status

certificate updated title certificate and mentioned the litigation in respect of the project of the respondent alongwith disclosure of orders of Civil Court as well as of Hon'ble Bombay High court on the website and nothing has been suppressed from MahaRERA as well as purchasers.

36. Admittedly, the litigation is pending in respect of said land before Hon'ble CJSD, Panvel and C.R.A. No.149/2024 is pending before Hon'ble Bombay High Court. This Authority is not having jurisdiction to express any opinion in regard to the matters pending before CJSD, Panvel and Hon'ble Bombay High Court, pertaining to the said land but it is admitted fact that litigations are pending regarding the said land before Court of Law. Moreover, it is contention of the respondent that respondent purchased the said land on 29.12.2012 from Kashinath Laxman Vanage, Shailaja Vanage through registered conveyance deed and they become the owner of the said land and prior to that Kashinath Vanage purchased share of Dr. Zemse from legal heirs of dr. Zemse and mutation entries sanctioned. From Kashinath Vanage, the respondent purchased the said land and thereafter, on 03.01.2022 the respondent obtained commencement certificate for the project in question and thereafter, registered the project with MahaRERA having no. P52000049036. It is contention of the complainant that the respondent neither disclosed about the pending litigations nor have informed about the status quo order in the said litigation. I have visited the project registration website and noticed that the respondent has uploaded information that Special civil Suit NO. 351/2013 pending before the CJSD, Panvel Dist.Raigad in respect of the project Silvera One of the respondent. Also uploaded copy of Ex. 5 injunction application and copy of application Ex. 31 alongwith order. The same are uploaded in other legal documents tab. It is contended by the respondent in the reply that the respondent has not sold any plot or apartment or building in the real estate project now known as Silvera One, being constructed on the said property by the respondent with all necessary permissions from concerned local authority. Hence, considering the

above facts as mentioned in my opinion, the request of the complainant to revoke the project registration cannot be allowed. However, considering the litigations pending before Civil Court instead of revoking the registration of the project, it is necessary to put the project in abeyance. Hence, I answer point no. 1 accordingly. Hence, I proceed to pass following order:

ORDER

1. The project No. P52000049036 registered with MahaRERA be kept in abeyance till the outcome of civil litigations pending before the Civil Court.
2. The Secretary, MahaRERA to put the said project registration no. P52000049036 in abeyance. The respondent herein is directed not to advertise, market, book or create any third party rights by offer for sale, enter into agreement for sale for any apartment in the said project till outcome of civil litigation pending before Civil Court.
3. The Secretary, MahaRERA is directed to block access to the said project registration no. take a stock of and review all returns filed till date and ensure that same are in safe custody. Further on the website pertaining to the said project registration, this order should be displayed.
4. The respondent is having liberty to approach this Authority alongwith necessary orders, after outcome of Civil litigation for removing the project from the abeyance caption.
5. Both parties bear their own costs.
6. The copy of this order be sent to Secretary, MahaRERA for compliance.

(Ravindra Deshpande)
Member-II, MahaRERA

Date : 10.06.2025