

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

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

REGULATORY CASE NO. 286 OF 2024

PROMOTER NAME SWARAJ MEGA STRUCTURE PRIVATE LIMITED

PROJECT NAME AVANTE

MAHARERA PROJECT REGISTRATION NO. P52000016411

ORDER

(In an extension application)

August 09, 2024

(Date of hearing -05.08.2024 matter reserved for order)

Coram: Shri Ajoy Mehta, Chairperson, MahaRERA

Advocate Saloni Kanekar i/b Advocate Parth Chande present for the Promoter.

1. SWARAJ MEGA STRUCTURE PRIVATE LIMITED is the Promoter/Developer within the meaning of Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016 (“**said Act**”) of Real Estate Regulatory Authority (“**RERA**”) and had registered the project “AVANTE” under section 5 of the said Act bearing MAHARERA **Registration No. P52000016411** (hereinafter referred to as the “**said Project**”).
2. The Promoter has filed an extension application No. EXT52000024312 on 11.07.2024 (hereinafter referred to as “**said extension application**”) seeking for extension of the said Project under section 7(3) of the said Act which was heard by this Authority on 05.08.2024 wherein the following roznama was recorded:

"Party informs us that due to the demise of the successor directors in the Project, the Project was delay. Presently the work has commenced, and they have completed 95% of the Project. They are now in the process of applying for OC and other clearances. Party seeks extension till 31.12.2025.

Matter reserved for orders."

3. Before moving ahead, the Authority notes the registration details already on record. The Promoter while seeking registration of the said Project had submitted the date of completion as 31.12.2019. MahaRERA granted three (3) extensions on the ground of Covid-19 pandemic which were granted to all the projects registered with MahaRERA and qualifying under Notifications / Orders Nos. 13, 14 & 21 dated 02.04.2020, 18.05.2020 & 06.08.2021 along with section 6 and five (5) section 7(3) whereby the date of completion was extended up to 30.06.2024. The Promoter states that due to the demise of the successor directors in the Project, the Project was delay. Presently the work has commenced, and they have completed 95% of the Project. They are now in the process of applying for OC and other clearances. Hence the Promoter has applied for extension vide the said extension application herein under section 7(3) of the said Act for the period from 01.07.2024 to 31.12.2025.

4. Thus, the issue before this Authority is with regard to grant of extension under Section 7(3) of the said Act. In this regard it is pertinent to note that the Promoter this time has not been able to obtain 2/3rd majority consents of the Allottees of the said Project. In this context the relevant extract of Section 7(3) is reproduced hereinbelow for ease of reference:

“7 (3) The Authority may, instead of revoking the registration under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees, and any such terms and conditions so imposed shall be binding upon the promoter.”

On the plain reading of Section 7(3) of the said Act, it is clear that instead of revoking the registration this Authority can impose certain terms and conditions as it thinks fit to let the registration remain in force.

5. The following observations are noteworthy before examining the issue of grant of extension under Section 7(3) of the said Act of registration of the said Project:

- a. The said Project comprises of four (4) buildings.
- b. The Promoter states that the said Project was initially managed by the late director Shri Raj Motilal Kandhari, who passed away on 10.05.2016.

Subsequently, his wife, Smt. Pooja R. Kandhari, took over the Project management until her passing on 22.09.2018. In her will, she appointed the deponent as the administrator of her entire business interests, to oversee the day-to-day affairs of the company until her two children reach majority.

- c. After the demise of both directors, Mr. Amol Sakharam Pachpute (the deponent) and Mr. Sakharam Sonu Pachpute were appointed as the new directors of the development company. Following the passing of Mr. Sakharam Sonu Pachpute on 30.08.2020, Ms. Riya Raj Kandhari was appointed as a director of the company, effective 21.10.2020.
 - d. The Promoter has applied for various NOCs from different departments to complete all pending work on the Project. The Project experienced delays due to the sudden deaths of the initial directors, who were overseeing operations. Additionally, the COVID-19 pandemic caused further delays due to lockdowns and travel restrictions, which were beyond control.
 - e. That the project is now 95% complete and is in its final stages. That the remaining work will be complete by October 2024 and then shall apply for the Occupancy Certificate.
6. In view of the above, the issue of the extension under Section 7(3) of the said Act as sought by the Promoter without 2/3rd consents of the Allottees needs to be examined in light of the above-mentioned fact. The Authority would like to bring on record the statements of objects and reasons of the said Act which are reproduced hereinbelow for ease of reference:

“An Act to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto.”

On perusal of the above it is clear that the whole aim of the said Act has been to promote the real estate sector in an efficient and transparent manner and protect the interest of the consumers (including home buyers / Allottees). Thus, by not

extending the registration of the said Project the same will come to a halt. The Promoter shall not be able to take actions for efficient completion as may be required in view of the lack of registration. Such an action will only be detrimental to the interest of the consumers (*including home buyers / Allottees*). Thus, the balance of convenience lies in allowing the extension with such condition so as to ensure completion. Further the Authority also notes that this extension under Section 7(3) needs to be granted so that the completion of the said Project is not interrupted. Thus, the Authority grants the extension to the registration of the said Project from 01.07.2024 to 31.12.2025. Needless to say, this extension will be without prejudice to the rights of the Allottees under the said Act. In view thereof, this Authority allows the said extension application keeping the rights of the Allottees intact with certain directions hereinbelow.

FINAL ORDER

The said extension application is **allowed** and the extension for the said Project is granted from 01.07.2024 to 31.12.2025 with the following conditions:

- A. The Promoter shall complete the construction work and obtain OC for the said Project. Needless to say, the Allottees of the said Project shall co-operate with the Promoter. That the rights of the Allottees under the said Act shall however remain intact.
- B. The Promoter is directed to submit within 15 days of this order date the PERT CPM / BAR charts about the milestones to be achieved with respect to the completion of the said Project. The same shall also be shared with the Allottees of the said Project.
- C. The Promoter herein is also directed to submit monthly progress reports of achievements of such milestones and/ or delay if any, to MahaRERA, the Association of Allottees, if any formed and the Allottees of the said Project.
- D. That upon receipt of the part / full OC the Promoter shall inform this Authority about the same and update all progress on the said Project registration webpage from time to time.

AJOY MEHTA
(Ajoy Mehta)
Chairperson, MahaRERA

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by AJOY MEHTA
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