

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

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

1. REGULATORY CASE NO. 307 OF 2024

PROMOTER NAME DHARMESH CONSTRUCTIONS PRIVATE LIMITED

PROJECT NAME	AVENUE WING B
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MAHARERA PROJECT REGISTRATION NO. P51800004402

ORDER

(In an extension application)

December 26th, 2024

(Date of hearing –10.12.2024 matter reserved for order)

Coram: Manoj Saunik, Chairperson, MahaRERA

Advocate Harshad Bhadbhade present for the promoter.

1. The applicant 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 “AVENUE WING B” under section 5 of the said Act bearing MAHARERA Registration No. **P51800004402** (hereinafter referred to as the “**said Project**”).
2. The promoter has filed an extension application no. EXT51800024747 on 11.10.2024 (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 10.12.2024 wherein the following roznama was recorded:
“Promoter seeks extension for the period of two years. Promoter faces challenges in vacating the tenants and therefore the promoter had to take action under SRA. Further, states that proceeding went on for some time and police action was taken for the removal, so the project got delayed. That construction upto twenty-sixth slabs are completed, and twenty-seventh slab is under construction and civil work is pending. Promoter directed to correct the date of extension on the website. Extension granted till 30.12.2026. Matter reserved for order.”

3. Further it is observed that the extension number in the roznama dated 10.12.2024 is wrongly recorded as EXT51700024959 instead of EXT51800024747. The same is rectified and to be read as **EXT51800024747**.
4. 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 31.12.2020. 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 extensions granted under section 6 and section 7(3) of the Act whereby the date of completion was extended up to 31.12.2024. The promoter states the delay in the completion of the real estate project has been primarily caused due to delay in approvals from the competent Authority, pandemic and delay caused by the tenants in vacating the plot. 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 01.01.2025 to 30.12.2026.
5. 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.

6. 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. That the promoter seeks extension for the period of two years.
 - b. That the promoter faced various challenges mainly the following:
 - i. That there was a delay of 29 months for receiving approvals from the competent Authority. The plot demarcation was applied on 27.09.2017 and received on 12.02.2019.
 - ii. That there was delay of 14 months as 24 slum tenants had refused to vacate the plot due to which the promoter had to go before the court to vacate them as per 33(38) provision of Slum Act, the proceedings of which was initiated on 23.10.2018 in which order was passed by the Authority on 13.03.2019
 - iii. That there was delay of 13 months and the project was stalled due to change in DCPR rules and regulations.
 - iv. Accordingly, due to change in rules the promoter had to apply for revised letter of intent which caused a further delay of 9 months.
 - v. That there was delay in payments to be made by the allottees which also effected the construction work.
 - c. Other reasons for delay includes demonetization, GST policies, shortage of building material and labourers, pandemic etc.
 - d. That construction upto twenty-sixth slabs are completed, and twenty-seventh slab is under construction and civil work is pending.
7. 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 **01.01.2025 to 30.12.2026**. 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 **01.01.2025 to 30.12.2026** with the following conditions:

- A. The promoter shall complete the construction work and obtain occupancy certificate (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.

Manoj Saunik
Chairperson, MahaRERA