

**BEFORE THE MAHARASHTRA
REAL ESTATE REGULATORY AUTHORITY, MUMBAI**
Virtual Hearing held through video conference as per
MahaRERA Circular No.: 27/2020

REGULATORY CASE NO. 82 OF 2023

PROMOTER NAME DHARMESH CONSTRUCTIONS PVT. LTD.

PROJECT NAME AVENUE WING B

MAHARERA PROJECT REGISTRATION NO. P51800004402

ORDER

(In an extension application)

November 2, 2023

(Date of hearing – 13.10.2023 matter reserved for order)

Coram: Shri Ajoy Mehta, Chairperson, MahaRERA

Authorized Representative present for the Promoter

1. DHARMESH CONSTRUCTIONS PVT. LTD 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. EXT51800015056 on 15.03.2023 (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 13.10.2023 wherein the following roznama was recorded:
*“Promoter is present. Promoter states that the Project was delayed because it was an SRA project and rehabilitation took time. Further, demarcation was also taking time. The new DP that came in required the plan to be amended. The Promoter informs that they still have a valid CC. Promoter seek extension till 31.12.2024. They have consents of 45 allottees of 147.
The Secretary, MahaRERA to verify that all QPRs have been filed and with that verification, the matter be reserved for order.”*

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 31.12.2020. 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 respectively along with extension granted under Section 6 of the said Act whereby the date of completion was extended up to 29.12.2022. The Promoter states that extension is required for completion of the Project as there was a delay in receiving plot demarcation, Covid-19 pandemic and delay in vacating slum tenants and subsequent court proceedings. Further the change in DCPR has caused delay in receiving LOI (letter of intent) from Slum Rehabilitation Authority (SRA). The Promoter states that there was delay due compliances of new labour laws by contractors. 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 30.12.2022 to 31.12.2024.
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. Pursuant to the roznama dated 13.10.2023, the Authority had directed Secretary, MahaRERA to verify that all QPRs filed by the Promoter in the said Project. In view thereof on 31.10.2023 Secretary, MahaRERA has submitted a summary report of compliances in the said Project which is marked as **Annexure 'A'** herein. On the perusal of the report the Authority observes that the Promoter has not complied with many compliances mandated under RERA.
6. Moving further, 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 shall be stalled. The Promoter shall not be able to take action 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) is the first extension and the same needs to be granted so that the completion of the said Project is not jeopardised. Thus, the Authority grants extension to the registration of the said Project from 30.12.2022 to 31.12.2024. 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 30.12.2022 to 31.12.2024 with the following conditions:

- A. The Promoter shall complete the balance construction work and obtain OC by 31.12.2024. 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 comply with all the pending compliances as stated in the summary report of the compliances marked as **Annexure 'A'** herein on or before 15.11.2023.
- C. The Promoter is directed to submit within 15 days of this order 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.
- D. 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.
- E. That upon receipt of the 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

Digitally signed by
AJOY MEHTA
Date: 2023.11.03
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Annexure 'A'

Summary Report Of Compliances For Projects

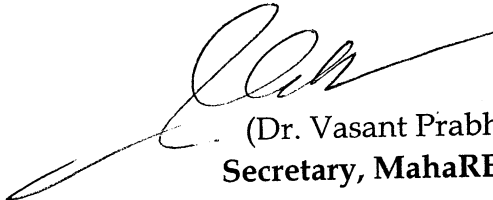
Regulatory Case No.

82 of 2023

Date: 31/10/2023

Extension Application No.	EXT51800015056
Project No.	P51800004402
Promoter:	Dharmesh Constructions Pvt Ltd.
Project Name	Avenue Wing B
Project Registration Date:	07-08-17
Extension Sought Till:	31-12-24
Consent of allottees available	30%

Compliances	Complied (Y/N)	Remarks
Form E (Extension Application)	Y	Applied on 15-03-2023
Form 1	N	Updated in March 2023, Pending for last two quarters.
Form 2	N	Updated in March 2023, Pending for last two quarters.
Form 2A	Y	Updated for every year.
Form 3	N	Updated in March 2023, Pending for last two quarters.
Form 5	N	Form 5 for year 2022-2023 pending. Delay condonation uploaded instead Form 5 for year 2020-21, 2021-22.
Sold & Unsold Inventory	N	Mismatch in Sold/Unsold inventory uploaded and details updated on portal.


(Dr. Vasant Prabhu)
Secretary, MahaRERA