

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

Physical Hearing held by Corum:

**Shri Ajoy Mehta, Hon'ble Chairperson, MahaRERA &
Shri Mahesh Pathak, Hon'ble Member-1, MahaRERA &
Shri Ravindra Deshpande, Hon'ble Member-2, MahaRERA**

SUO-MOTU CASE NO. 296 OF 2023

SHUBHARAMBH PARADISE

...PROJECT NAME

SHUBHARAMBH REALITY

... PROMOTER

MAHARERA PROJECT REGISTRATION NO. P52000028587

ORDER

May 2, 2024

(Date of virtual hearing -26.03.2024 matter reserved for order)

**Coram: Shri Ajoy Mehta, Hon'ble Chairperson, MahaRERA &
Shri Mahesh Pathak, Hon'ble Member-1, MahaRERA &
Shri Ravindra Deshpande, Hon'ble Member-2, MahaRERA**
Representative Rajesh Patil present for the Promoter

1. SHUBHARAMBH REALITY is the existing 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 "SHUBHARAMBH PARADISE" under section 5 of the said Act bearing MAHARERA Registration No. P52000028587 (hereinafter referred to as the "said Project").
2. On 17.01.2023 the Authority received intimation from Maharashtra State Road Development Corporation LTD. (MSRDC) to revoke the Commencement certificate (CC) dated 05.05.2021 bearing No. MSRDC/SPA/BP-249/ Amended CC/2021/513 for the reasons stated more specifically therein. On receipt of the intimation dated 17.01.2023 a show cause notice dated 27.01.2023 was issued by Secretary, MahaRERA to the Promoter.

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3. Subsequent to which the Promoter was heard on several occasion namely 28.03.2023, 02.08.2023, 12.09.2023, 19.12.2023, 26.03.2024 wherein the following Roznama recorded are reproduced hereunder for reference:

SR. NO.	DATE OF HEARING	ROZNAMA RECORDED
1.	28.03.2023	<p>Mr. Ravi Periwal (Pnrtner) along with Mr. Rajesh Patil</p> <p>"The Party is present and states that based on a commencement certificate (CC) that was issued to him he had gone ahead and constructed a building. He has also taken a registration number from MahaRERA.</p> <p>The promoter has now nearly completed the building and has also concluded 4 sale deeds. The Promoter states that on approaching MSRDC, the Planning Authority he was told that there are certain deviations from the sanctioned plan and hence occupation certificate (OC) cannot be given. The promoter also brings to the notice of the Authority the harassment he has faced from the local authorities. The Authority takes a very serious view of such conduct.</p> <p>The Promoter states that he is in the process of complying with the anomalies pointed out by the Planning Authority and is confident to comply with the same in the next three months. The promoter seeks that his registration number should not be revoked as that would cause irreparable damage to him financially and also to his reputation. The agreement for sale has also been executed and the allottees are also likely to face hardships in the event of revocation of the project registration. The Promoter assures the Authority that till such time he obtains the clearances from the Planning Authority he will not make any further sales.</p> <p>The Authority hereby directs the Promoter not to advertise, market, book, sell or offer for sale, or invite persons to purchase till the final orders are passed in the captioned case. Further the Authority directs the VC & MD of MSRDC, the Planning Authority to personally look into this matter and resolve the issue at the earliest. The Registry MahaRERA to serve the copy of this roznama upon the VC & MD of MSRDC, the Planning Authority.</p> <p>The captioned case is heard and reserved for orders."</p>
2.	02.08.2023	"Due to unavailability of the Bench, the captioned matter is adjourned to 12.09.2023 for Physical Hearing at MahaRERA BKC Office at 3:30pm."
3.	12.09.2023	<p><u>Adjourned on Application:</u></p> <p>"Pursuant to your application dated 05.09.2023 seeking adjournment on medical grounds, the captioned Suo Motu Case No. 296 of 2023 is adjourned on application to 19.12.2023."</p>
4.	19.12.2023	<p><u>Adjourned on Application:</u></p> <p>"Pursuant to your application dated 05.12.2023 seeking adjournment on medical grounds, the captioned Suo Motu Case No. 296 of 2023 is adjourned on application to 26.03.2024."</p>
5.	26.03.2024	<p>"Representative Rajesh Patil present for the Promoter.</p> <p>1. Promoter informs the Authority that he has now received the Commencement Certificate for the Project. He now seeks that his Project number be reactivated and the abeyance order passed by the Authority be withdrawn.</p> <p>2. The Promoter is directed to submit the CC received and all other documents to Secretary, MahaRERA. The Secretary, MahaRERA shall examine the same and report to the Authority within 7 days of this order.</p> <p>3. Matter is reserved for orders."</p>

4. Subsequent to hearing dated 28.03.2023 the matter was reserved for order wherein the following interim order dated 31.03.2023 (hereinafter referred to as

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the said "interim order") is passed by the Authority. The operative part of which is reproduced hereinunder for reference:

"g. Thus, in view of the submissions made by the Promoter and the undertaking given by him during the hearing, the Authority shall hold itself from passing any orders on revocation of the said Project under Section 7 of the said Act. The Promoter shall however within 120 days of this order submit the necessary documents clearly stating that the CC is revived and the deviations in the construction works are regularised by MSRDC, the said Project registration shall be put in abeyance.

h. The Secretary MahaRERA, is directed to Put the said Project registration in abeyance till further orders from the Authority. Further, the Promoter is directed to submit documents of the regularisation of construction works and revival of the CC by MSRDC. The said Project registration shall be put in abeyance.

i. Lastly, the Promoter till further orders shall be barred / restrained forthwith from advertising, marketing, booking, selling or offering for sale, or inviting persons to purchase in any manner any apartment or building, as the case may be, in the said Project or Part of it.

j. In view of the above directions the case is adjourned to 02.08.2023 at 03.30 pm at MahaRERA BKC office for physical hearing wherein the Promoter is directed to remain present for final hearing in the captioned case."

5. Pursuant to the Roznama dated 26.03.2024 the Authority directed the Secretary, MahaRERA to enquire in the matter and submit a report. Subsequently Report dated 22.04.2024 was submitted before the Authority. Following is the conclusion of Report dated 22.04.2024 reproduced hereunder:

"In accordance with the Roznama dated 26.03.2024, the Promoter through its written submission dated 26.03.2024, submitted the revised commencement certificate bearing No. MSRDC/SPA/BP-249/CC/2024/157 dated 25.01.2024 along with revised plans.

Further, upon checking with the Technical Department, MahaRERA, the said revised commencement certificate was received by the department via an email from MSRDC Office dated 13.03.2024 in accordance with our new procedure.

If, the Authority approves the following:

The abeyance order passed by the Authority in the said project no. P52000028587 can be withdrawn".

6. Following are the brief facts and observations in the captioned case:

SR NO.	DATE	EVENT
1.	17.01.2023	Notice from MSRDC to revoke the CC dated 05.05.2021 bearing No. MSRDC/SPA/BP-249/Amended CC/2021/513.

2.	27.01.20223	Show cause notice dated 27.01.20223 issued by Secretary, MahaRERA to the Promoter.
3.	28.03.2023	Heard the Promoter and matter was reserved for orders.
4.	31.03.2023	Vide Interim order the Project registration was put in abeyance and the matter was adjourned to 02.08.2023.
5.	02.08.2023	Matter was adjourned to 12.09.2023 due to unavailability of the Bench.
6.	12.09.2023	Promoter sought adjournment on medical grounds
7.	19.12.2023	Promoter sought adjournment on medical grounds
8.	26.03.2024	Heard the Promoter and the matter was transferred to Secretary, MahaRERA to examine the revised approvals and file a report and matter was reserved for order.
9.	22.04.2024	Secretary Report taken on record.

7. That captioned case is taken up by MahaRERA against the Promoter pursuant to the intimation of MSRDC to revoke the Commencement certificate (CC) dated 05.05.2021 bearing No. MSRDC/SPA/BP-249/Amended CC/2021/513 for reasons stated more particularly therein. However, it is clear from the submission of the Promoter and from the email received from the MSRDC Office dated 13.03.2024, Report dated 22.04.2024 that the Promoter has now submitted the revised commencement certificate bearing No. MSRDC/SPA/BP-249/CC/2024/157 dated 25.01.2024 along with revised plans and the same are taken on record.
8. It is observed that, now the Promoter has obtained amended CC and plans. Thus the Authority will restrain itself from passing any orders for the revocation of the said Project registration.
9. Thus, the only issue now remains that *whether the abeyance order with respect to the Project registration can be withdrawn subsequent to the revised plans and CC?*
10. In the present case the said Project was kept in abeyance vide the said interim order till CC is revived and the deviations in the construction works are regularised by MSRDC. The Promoter informs us that he has complied with the said interim order and has got the construction regularized by obtaining revised

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commencement certificate bearing No. MSRDC/SPA/BP-249/CC/2024/157 dated 25.01.2024 along with revised plans and the same are taken on record.

11. In this regard, Section 11(1) & 11(2) of the said Act needs to be examined. These sections deal with the creation of the webpage of the project, the purpose of the same and the content therein. Section 11(1) & (11(2) are re-produced hereinbelow for ready reference:

Section 11(1) & (11(2):

"(1) The promoter shall, upon receiving his Login Id and password under clause (a) of sub-section (1) or under sub-section (2) of section 5, as the case may be, create his web page on the website of the Authority and enter all details of the proposed project as provided under sub-section (2) of section 4, in all the fields as provided, for public viewing, including –

- (a) details of the registration granted by the Authority;*
- (b) quarterly up-to-date the list of number and types of apartments or plots, as the case may be, booked;*
- (c) quarterly up-to-date the list of number of garages booked;*
- (d) quarterly up-to-date the list of approvals taken and the approvals which are pending subsequent to commencement certificate;*
- (e) quarterly up-to-date status of the project; and*
- (f) such other information and documents as may be specified by the regulations made by the Authority.*

(2) The advertisement or prospectus issued or published by the promoter shall mention prominently the website address of the Authority, wherein all details of the registered project have been entered and include the registration number obtained from the Authority and such other matters incidental thereto."

12. On perusal of the above it is very clear that the whole purpose of providing a webpage and ensuring its updation is to ensure that the allottees receive up to date information on the progress of the project. The website also provides relevant and important information to the allottee to make informed decisions regarding the project. The act of freezing the access to the webpage of MahaRERA for the said Project would essentially mean that the Promoter would not be able to update the progress on the same hence creating a situation wherein the allottees would not be able to understand the said Project progress.

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13. The Authority has prevented access to the webpage of MahaRERA for the said Project vide the said interim order of abeyance. In this regard Section 7(3) which provides for the Authority to take certain actions instead of revoking the registration becomes relevant. The Section 7(3) is reproduced hereinbelow for ready reference:

Section 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."

14. The action of denying access to the webpage of MahaRERA for the said Project has been done to safeguard the allottees. In the present case, the Promoter informs that he has complied with the said interim order and has got the construction regularized by obtaining approval of the revised CC along with plans. In view of the above the moratorium that was imposed has now been lifted and the Promoter intends to commence the work of the said Project. The commencement of the work would mean that the said Project would move towards completion and allottees who were earlier not able to get possession would be able to get possession of their premises (flats).
15. In order to enable the said Project to proceed towards completion it would be important that the Promoter would also be required in view of the progress of the said Project to bring all relevant information in public domain so as to enable the allottees to be informed about the progress of the said Project as envisaged under section 1 & 2 of the said Act.
16. In order to meet the twin objective of firstly completing the said Project and secondly informing the allottees about the progress of the said Project, it would be critical to enable access to the webpage of MahaRERA for the said Project.


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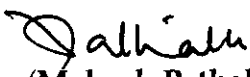
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Without this, in spite of the resolution plan the said Project would not be able to progress and see completion.

17. The Authority therefore considers it expedient to allow access to the webpage of MahaRERA for the said Project. The Secretary, MahaRERA to take necessary steps to allow access to the webpage of MahaRERA for the said Project.


(Ravindra Deshpande)
Member-II, MahaRERA


(Mahesh Pathak)
Member-I, MahaRERA


(Ajoy Mehta)
Chairperson, MahaRERA