

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

**SUO MOTU ADVERTISEMENT/
PUNE CASE NO. 145 OF 2023**

MahaRERA on its own Motion

.... Complainant

Versus

Yash Infrastructures
Dwarkapuram

.... Respondent

Unregistered Project.

Coram: Shri.F.D.Jadhav, Dy.Secretary-Cum-Head

Appearance :- Manojkumar Sahuji, A.R. for respondent.

ORDER

19th December, 2023

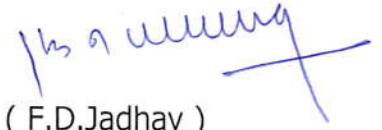
(Through Video Conferencing)

1. MahaRERA Authority has issued show cause notice, dated 17.11.2023 to the respondent-promoter for publishing advertisement in the daily newspaper "Lokmat-Hello Jalna" and "Lokmat-Hello Beed", dated 22.10.2023 of their real estate project "Dwarkapuram" situated at Gat No. 183, Kumbhephal, Chhatrapati Sambhaji Nagar without registering the said project with MahaRERA and thereby violating the provision of Section 3 of the Maharashtra Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act, 2016).
2. The respondent-promoter has filed his short reply dated 28.11.2023. He has submitted in his reply that he has received N.A. order sanction from Nagar Rachana Vibhag, Aurangabad on 29.09.2015 against this project. Mr. Manojkumar Sahuji has appeared in the matter on behalf of the respondent-promoter. He has reiterated the contentions raised out by the respondent in their reply. He has submitted that this project is plotted project and he had obtained the N.A. Order from the Sub-Divisional Officer, Aurangabad in the year 2015 prior to commencement of the Act, 2016 and therefore, the provisions of the Act, 2016 are not applicable to his project in question. He has

further submitted that no any new development has been made in the said project. In support of his contentions, respondent has furnished copy of the N.A. Order issued by the Sub-Divisional Officer, Aurangabad, dated 29.09.2015.

3. Perused the impugned advertisement. It contains that this is a N.A. plotting project of plots admeasuring 1250 to 6000 sq. ft. at Gat No.183, Kumbhephal, Shendra-Bhalgaon Road Touch, Chhatrapati Sambhaji Nagar. The copy of the N.A. order in respect of land Gat No. 183, admeasuring 5459.06 issued under Section 44 of the Maharashtra Land Revenue Code, 1966 by the Sub-Divisional Officer, Aurangabad, dated 29.09.2015 has been furnished on record. Clause (2) of the said order shows that Asst. Dierctor of Town Planning, Aurangabad has informed that the said land is reserved for residential purpose by the Planning Authority.
4. Circular No.25/2019, dated 11.10.2019 issued by MahaRERA Authority deals with clarification regarding registration of agreement for sale/sale-deed for real estate projects. Para 1 thereof speaks about "Real estate projects that are excluded from MahaRERA registration". Clause 3 thereunder states that "Real estate projects where promoter has received completion certificate/O.C./N.A. (in case of plotted development) from Competent Authority, anytime before agreement for sale/sale deed registration. Since in this matter N.A. order was received by the promoter against this plotted project prior to enforcement of the Act, 2016, this project squarely falls within the scope of clause 3 of para 1 of Circular No.25/2019. It means this project will get exemption from the registration of the project.
5. Considering the N.A. permission issued by the Sub-Divisional Officer, Aurangabad prior to enforcement of the Act, 2016, the provisions of the Act, 2016 cannot be said to be applicable to the project in question. Therefore, there is no prima facie case made out in the present case to prove that the respondent-promoter, by issuing the impugned advertisement of his real estate project without registering the said project with MahaRERA, has violated the provision of Section 3 of the Act, 2016.

6. Consequently, the provision of Section 59 of the Act, 2016 cannot be invoked in the matter. The matter therefore, stands disposed off without imposing penalty upon the respondent-promoter.



(F.D.Jadhav)
Dy.Secretary-Cum-Head,
MahaRERA, Pune