

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY**

**CORAM : SHRI JAYANT B. DANDEGAONKAR, DY. SECRETARY, PUNE**

**SUO MOTU ADVERTISEMENT/PUNE CASE NO. 35 OF 2025**

MahaRERA on its own Motion .... Complainant

Versus

**Nyati Builders Pvt. Ltd.** .... Respondent-Promoter

**NAME OF THE PROJECT : "NYATI EXUBERANCE I"**

**MahaRERA Project Registration No.P52100027031**

**Appearance :-**

Adv. Rahul Kankariya for Respondent-Promoter

**ORDER**

27<sup>th</sup> MARCH, 2025

(Through Video Conferencing)

1. MahaRERA Authority by its Office Order No.MahaRERA/Secy/DoP/Advertisement/41/2025, dated 16<sup>th</sup> January, 2025 has delegated powers to the undersigned to issue show cause notice in case of violation by the promoters under Section 3(1), 11(2) of the Real Estate (Regulation And Development) Act, 2016 (hereinafter referred to as **the RERA**), MahaRERA Order No.46/2023, dated 29.05.2023 read with MahaRERA Order No.46A/2023, dated 25.07.2023; and to pass orders on the show cause notice after considering the reply submitted by promoters to show cause notice and after granting personal hearing to promoters; and impose penalty under Section 59, 61 and 63 of the RERA. Powers are also delegated to the undersigned to issue show cause notices and such further notices to the real estate agents for violation by real estate agents of the provision of Section 10(a) of the RERA/or Rule 14 of Maharashtra Real Estate (Regulation and Development)(Registration of real estate projects, Registration of real estate agents, rates of interest and disclosures on website) Rules, 2017 (hereinafter referred to as **the Rules**) and MahaRERA

Order No.46B/2023, dated 21.08.2023; to pass orders on the show cause notices as issued after considering the reply submitted by real estate agents to the show cause notice and/or after granting personal hearing to the real estate agents; and to impose penalty under Section 62 of the Act for violation of Section 10(a) of the Act and Rule 14 of the Rules and under Section 65 of the Act for violation of MahaRERA Order No.46B/2023, dated 21.08.2023.

2. The Advertising Standards Council of India (ASCI) has issued an **intimation letter, dated 18.11.2024** to the respondent and thereby informed that the advertisement published by the respondent on **Property Portal** in respect of a real estate project under the name **"NYATI EXUBERANCE I"** does not contain **QR Code** and the same is considered to be prima facie in contravention of Real Estate (Regulation & Development) Act, 2016. ASCI has further directed the respondent to ensure that the said advertisement has to be modified or withdrawn no later than **NOVEMBER, 27, 2024**. Therefore, the present proceeding has been initiated against the respondent-promoter after perusal of the documents referred by ASCI including the impugned advertisement and in delegation of the powers to the undersigned vide the aforesaid Office Order, dated 16.01.2025.
3. On minute perusal of the impugned advertisement, it transpires that it does not contain QR Code. Accordingly, notice of hearing, dated 29.01.2025 was served to the respondent-promoter and opportunity of being heard was given to him.
4. In response to the said notice of hearing, dated 29.01.2025, respondent-promoter has filed his reply, dated 07.02.2025 wherein it has been contended that after receiving intimation letter from ASCI regarding the subject advertisement, the respondent-promoter has immediately took action and on 19.11.2024 requested the concerned person at CommonFloor Platform wherein respondent has received a confirmation on 25.11.2024 from the representative of the CommonFloor that the advertisement has been duly updated with the RERA QR Code under the images tab. The

respondent-promoter has further contended in his reply that the said advertisement was created and posted by CommonFloor itself on its own, and it was the platform that added the RERA QR Code under the images tab in accordance with the guidelines and the respondent has ensured full compliance with the provisions of MahaRERA Act and Rules. It is further contended that no violation has been committed on the part of respondent with respect to the advertisement in question. Lastly, the respondent has prayed to withdraw the notice issued to him.

5. Adv. Rahul Kankariya appeared on behalf of respondent-promoter. He has reiterated the contentions raised out by the respondent-promoter in his reply. He has submitted that the impugned advertisement has been immediately modified as per the directions of ASCI and prayed to waive the charges.
6. MahaRERA Order No.46/2023, dated 29.05.2023 directs the promoter to display/publish the QR Code beside the MahaRERA Registration number in a legible, readable and detectable with the software application on each and every project promotion/advertisement published after 1<sup>st</sup> August, 2023 in the mediums described in the said Order.
7. Perused the impugned advertisement. The first stand taken by the respondent-promoter that after receipt the notice, the impugned advertisement has been immediately modified and informed the ASCI accordingly. To support his contentions, the respondent-promoter has filed on record email dated 05.02.2025 sent by the respondent to the email addresses mentioned therein. If all the said email addresses are perused, the same are of the IT department of MahaRERA Authority and not of ASCI. The said email dated 05.02.2025 states that the third party i.e. commonfloor was asked to modify/delete the said advertisement post verbally on 9<sup>th</sup> November, 2024 however, repeated follow-ups were done and communicated. The said email further states that the snap shots of what's app chat were attached with it. It further states that the respondent received

a confirmation on 25<sup>th</sup> Nov. that the said post was updated with the RERA QR's under the image tab. The snap shots on what's app chat between the respondent-promoter and the channel partner cannot be said to be the compliance asked by ASCI and that too, within the timeline given. Further the email has not been sent to the ASCI, but it was sent to the IT department of the MahaRERA Authority. This Authority has therefore, called clarification from the ASCI and ASCI has given clarification, dated 10.02.2025 that ASCI has received the response from the respondent post the due date i.e. November 27, 2024. Therefore, this stand taken by the respondent-promoter has been washed out through the clarification from ASCI.

8. The second stand taken by the respondent-promoter that the impugned advertisement was created and posted by CommonFloor itself on its own, and it was platform that added the RERA QR Code under the images tab in accordance with the guidelines. The MahaRERA Order No. 46/2023, dated 29.05.2023 clearly directs the promoter to display the QR Code in the advertisement beside the MahaRERA Registration Number. Therefore, displaying the QR Code in Images Tab cannot be said to be fulfilled the directions issued by MahaRERA Order No.46/2023, dated 29.05.2023 nor it fulfills the object of issuing the same. Moreover, if it is the case of the respondent-promoter that the impugned advertisement was created and posted by CommonFloor on its own, the respondent-promoter has to lodge a complaint against the said property portal/Channel Partner and submit a copy of the same with report of police to this Authority. The respondent-promoter has not produced on record any complaint lodged against the said Channel Partner to have published the impugned advertisement without the consent of respondent-promoter, which contravenes the directions issued under the MahaRERA Order No.46/2023. Therefore, the defence of the promoter cannot be said to be legal and proper and cannot be accepted for want of documentary evidence.

9. From the evidence on record, it can be safely inferred that by publishing the impugned advertisement which does not display QR Code

beside the MahaRERA Registration number in a legible, readable and detectable manner with the software application, thereby the respondent-promoter has contravened the directions issued by the MahaRERA Authority vide Order No. 46/2023, dated 29.05.2023.

10. MahaRERA Order No.46A/2023, dated 25.07.2023 prescribes the amount of penalty for violation of the directions issued in the MahaRERA Order No. 46/2023, which may extend up to Rs. 50,000/- subject however to a minimum penalty which shall not be less than Rs. 10,000/- under Section 63 of the Act shall be imposed upon promoters for each such violation.
11. Therefore, I am of the opinion that the charges leveled against the respondent-promoter in the notice of hearing are proved beyond the doubt. Therefore, penal provision under the RERA as mentioned above are to be invoked in this matter.
12. Penalty of Rs.10,000/- under Section 63 of the Act, 2016 has been imposed against the respondent-promoter for contravention of the directions issued by the MahaRERA Authority by Order No.46/2023, dated 29.05.2023 read with Order No.46A/2023, dated 25.07.2023.
13. The aforesaid penalty shall be payable by the respondent within 15 days from the date of enforcing penalty, failing which respondent shall be liable to penalty of Rs.1000/- per day, in addition, till the compliance.
14. The Technical and Finance Department of the MahaRERA Authority shall verify the payment of the said penalty before processing any applications by promoter for extension, corrections, change of name etc., with respect to the said project.

Pune  
Date :- 27.03.2025

(JAYANT B. DANDEGAONKAR)  
DEPUTY SECRETARY, MAHARERA  
PUNE