

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

COMPLAINT No: CC006000000000266

Mr. Mukesh M. Shah

.. .... Complainant

Versus

M/s. Om Sri Maa Shakti I Namah

MahaRERA Registration No - P51800008904

..... Respondent

Coram: Hon'ble Dr. Vijay Satbir Singh, Member 1

Advocate Talsania appeared for the complainant

Advocate Abir Patel appeared for the respondent..

**Order**

(21<sup>st</sup> December 2017)

1. The complainant has filed this complaint seeking directions of this Authority to (a) cancel the project registration certificate bearing No. P51800008904; (b) to remove the said project from the MahaRERA website and (c) to give possession of the Society premises to the society, so they can proceed with re-development.
2. This matter was heard on a number of occasions including the full bench of MahaRERA on 27-11-2017 and the same was finally heard today. It is brought to the notice of the Authority that the complainant is the Chairman of Marve Apartment CHS Ltd. and this complaint is filed on behalf of the Society for violation of section 4 of the RERA Act. The complainant requested to cancel the project uploaded on MahaRERA website since same is uploaded with false information. The complainant



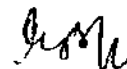
further stated that the Society had executed Development Agreement with the respondent on 14-12-2011. After 2 years, the respondent stopped the construction work on site and also stopped paying rent to the members of the society. Therefore, the society decided to terminate the development agreement and to invoke the Bank Guarantee of Rs. 1.25 Cr. Thereafter, the society filed Arbitration proceeding bearing No. ARBP No. 1757 of 2015 against the respondent. In the said case the direction was given to the respondent to clear the outstanding rent, Bank Guarantee and outstanding BMC property taxes till June 2016. Since the respondent failed to comply with the aforesaid directions, the Society filed Contempt Petition No. 19 of 2017 and Notice of Motion No. 726 of 2017. In the said petition, the Hon'ble High Court vide order dated 24-04-2017 has observed that the termination of the respondent is justified. Hence, the respondent is no longer promoter of the society. Since the respondent has violated the provisions of Section 4 of the RERA Act, 2016, the complainant requested to cancel the said registration.

3. However, the respondent has disputed the claim of the complainant and stated that the present complaint filed by the complainant is not maintainable before this Authority, since this Authority has no jurisdiction to try and entertain such civil disputes. The respondent further stated that the society has terminated his appointment as promoter of their project and the said termination is sub-judice before the Hon'ble High Court at Bombay. Even the proceedings under section 9 and 11 of the Arbitration Act are also pending before the appropriate forum and therefore, the complainant Society, being the co-promoter cannot agitate their grievances before this Authority.
4. Considering the rival submissions made by both the parties and after perusing the record of this Authority, it appears that the complainant is representing the Society that is implementing the redevelopment scheme through the respondent and the said Society has joined as co-promoter in the project registered with MahaRERA. Further, while applying for the registration, the respondent in the "Encumbrances



details" has declared that the Society has terminated his appointment and they have challenged the said termination by filing appeal before the Hon'ble High Court. The complainant could not point out violation or contravention of section 4 of the RERA Act, for which this Authority could exercise its authority and give him relief.

5. Further, as per the provisions of section 3 of the RERA Act, 2016, all ongoing projects not having occupation certificate were required to be registered with MahaRERA within the stipulated period of 3 months from the date of commencement of RERA Act, i.e. 1-5-2017 and this project being ongoing project is required to be registered with this Authority. Even as on date the respondent is the promoter on record of the competent authority and all relevant approvals by the competent authority stands in the name of the respondent. Therefore, there is no justification to cancel the registration certificate issued by MahaRERA in favour of the respondent.
6. With regard to the other reliefs sought by the complainant, this Authority feels that by filing this complaint, the complainant is seeking enforcement of the terms and conditions of Development Agreement executed on 14-12-2011 between the Society and the respondent and this Authority has no jurisdiction to try and entertain such civil dispute. With regard to the cancelation of the registered project, this Authority is of the view that since the disputes are going on before the appropriate forum and if the termination of contract is finally confirmed by the competent court of law and if the competent authority remove the name of the respondent as promoter on record, in that event the relevant information will have to be updated in the said registered project.
7. In view of the facts, as discussed above, the complaint stands dismissed.



(Dr. Vijay Satbir Singh)  
Member-1