

BEFORE THE
MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY
MUMBAI

COMPLAINT NO: CC006000000001705

Arif Shaikh ... Complainant

Versus

Kumar Builders ... Respondent
MahaRERA Regn.No. P51900009276

Corum:
Shri. Gautam Chatterjee, Chairperson, MahaRERA

Complainant himself present.
Respondent was represented by Adv. Nilesh Gala (Law Square)

Order

January 22, 2018

1. The Complainant has alleged that he along with his father has 1/6th undivided right, title and interest on the property on which the Respondent is developing the project 'KUL Couture' and that the Respondent has failed to disclose that there is a pending litigation before the Hon'ble Bombay High Court, regarding the same, (hereinafter referred to as the said *litigation*). Further, he argued that the Respondent has also intentionally suppressed the injunction order passed in the said litigation, restraining the Respondent from selling, alienating encumbering or creating any third-party rights to the extent of 1/6th share in the said Project.
2. During the hearing, the advocate for the Complainants argued that the Complainants name should also be stated in the Respondent's MahaRERA registration as Promoter (Land Owner/ Investor).
3. The advocate for the Respondent argued that the details pertaining to the said litigations have been captured in the "Legal Title Report" uploaded in their MahaRERA registration; therefore, mentioning the same in the "litigation" section of



the webpage may not be necessary. He further said that the Complainants' rights to the extent of 1/6th share in the said Project is still under dispute. Therefore, he argued the Complainants have no *locus standi* in the said Project as on date.

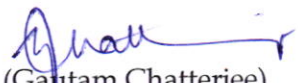
4. Section 4(2)b of the said Act reads as thus:

(2) The promoter shall enclose the following documents along with the application referred to in sub-section (1), namely:

... (b) a brief detail of the projects launched by him, in the past five years, whether already completed or being developed, as the case may be, including the current status of the said projects, any delay in its completion, details of cases pending, details of type of land and payments pending; ...

Therefore, the said Act clearly mandates that the promoter should disclose all litigations pertaining to the project being registered with MahaRERA. They should also be disclosed in the section meant for the same, so that people can easily access the said information. Merely mentioning the same in the legal title report will not suffice. Moreover, the number of apartments which constitute 1/6th share and regarding which the Respondent is restrained from selling, alienating encumbering or creating any third-party rights, should also clearly be disclosed.

5. Further, since the Complainants have claimed that they have 1/6th undivided right, title and interest on the property, which is a matter of dispute in the relevant court, they stand to be an interested party in the said Project and they are entitled to file complaints with MahaRERA. However, at this stage, their name is not required to be added as Promoter (Land Owner/ Investor) in the Respondent's MahaRERA registration, as their claim is disputed.
6. In view of the above facts, the respondent is directed to upload full and complete disclosures, specifically, the litigation mentioned by the Complainant and the portion constituted in the 1/6th share, in their MahaRERA registration as required under section 4 of the said Act and the rules and regulations made thereunder, within 7 days from the date of this Order.
7. Consequently, the matter is hereby disposed of.


(Gautam Chatterjee)
Chairperson, MahaRERA