

BEFORE TELANGANA STATE REAL ESTATE REGULATORY AUTHORITY
[Under the Real Estate (Regulation and Development) Act, 2016]

COMPLAINT NO.300 OF 2023

2nd Day of September 2024

Corum: **Dr. N. Satyanarayana, IAS (Retd.), Hon'ble Chairperson**
 Sri K. Srinivasa Rao, Hon'ble Member
 Sri Laxmi Narayana Jannu, Hon'ble Member

Sri Erakala Krishna

...Complainant

Versus

1. Government of Telangana,
Represented by its Principal Secretary
2. Greater Hyderabad Municipal Corporation
3. Greater Hyderabad Municipal Corporation
Represented by its Dy. Commissioner
4. Hyderabad Metropolitan Development Authority
Represented by its Vice Chairman & Managing Director
5. M/s Housz Buildtech LLP
Represented by its Managing Director,
Sri Mukul Agarwal

...Respondents

The present matter filed by the Complainant herein came up for hearing on 23.07.2024 before this Authority in the presence of Counsel for Complainant, Sri Paravastu Krishna and Counsel on behalf of Respondent No.5, Sri Duvva Pavan Kumar, Ms. Shraddha Gupta and others and none on behalf of the other Respondents, and upon hearing the arguments, this Authority passes the following **ORDER:**

2. The present Complaint has been filed under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "Act") read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules") requesting appropriate action against the Respondent.

Brief facts of the case:

3. Complainant submits that during the Jagir regime, the Jagirdar of Pokkalawada Village has assigned land admeasuring Ac.10-00 gts. in Sy. No. 4 of Pokkalawada Village, Serilingampally Mandal (now in Rajendra Nagar Mandal), Ranga Reddy District in favour of the Appellant in or around the year 1935. that one Mr. Adi Agamayya and Mr. Poosa Mallaiah were also assigned land admeasuring Ac.5-00 gts. each in Sy. No. 4.

4. It was submitted that the names of the said assignees were entered in the revenue records as *pattadars* and possessors. That, the Complainant's father died intestate leaving the Complainant and other family members as his surviving legal heirs and successors. After the death of his father, the Complainant bequeathed the land admeasuring Ac.10-00 gts. by way of succession, along with other legal heirs. The Complainant submits that however, the Complainant has been managing the affairs of the entire extent of Ac.20-00 Gts. derived by the Complainant and the other legal heirs from their late father and also the lands assigned in favour of Mr. Adi Agamayya and Mr. Poosa Mallaiah as the said lands were also entrusted to the Complainant.

5. That after the abolition of the Jagirs, the Revenue authorities started claiming that the lands in Sy. No. 4 are Government lands even though the names of the Complainant and others have been continuously appearing in the cultivators column of the *pahanis* and even though Complainant has been in physical possession and enjoyment of the entire land admeasuring Ac.20-00 gts.

6. That the Respondent No. 4 started allotting the lands indiscriminately to the private parties including the 5th Respondent herein by setting up false claim that it is a Government land, ignoring the factum of possession and enjoyment of the appellant's family over the said land for the past more than 8 decades.

7. Subsequently, disputes arose and several suits were filed by the Complainant herein against the government and other parties and *vice versa*. While the suits were pending consideration, the government put the land of the complainant for auction and M/s Housz Buildtech purchased the same.

8. That M/s Housz Buildtech, i.e., Respondent No.5 herein has proceeded with construction in a hurried manner and is understood to have approached the Respondent No.4 seeking to issue Occupancy Certificate in its favour. The Complainant submitted that if the Occupancy Certificate is granted by the Respondent No.4 in favour of the Respondent No.5, the Complainant will suffer irreparable hardship and loss.

Relief sought:

9. Therefore, the Complainant prayed to direct the Respondent No. 4 herein not to issue Occupancy Rights Certificate in favour of the Respondent No.5 herein in respect of the land admeasuring Ac. 8-02 gts. in Sy. No. 4 of Pokkalwada Village, Rajendra Nagar Mandal, RR District.

Reply on behalf of Respondent No.3:

10. The matter was listed for hearing on 23.07.2024, wherein the Counsel for Complainant appeared. The Counsel for Respondent No.5 appeared and entered appearance and also filed a Memo thereby submitting that Respondent No.4, vide Proceedings No.004737/OC/HMDA/SKP/2024 dated 15.03.2024 has already issued Occupancy Certificate to the Respondent No.5 which makes the relief sought by the Complainant infructuous. A copy of the said Occupancy Certificate was duly filed along with the Memo. Therefore, it was prayed to dismiss the present Complaint.

Observations and Directions of the Authority:

11. This Authority has perused the material on record and heard the contentions raised by the Complainant as well as the Respondent No.5. At the onset, it is observed that the Complainant has made the Real Estate Appellate Tribunal as party Respondent before the Hon'ble High Court in Writ Petition No.5632 of 2023 and the Hon'ble High Court has directed the Real Estate Appellate Tribunal to consider the said Memorandum dated 02.12.2022, however, it is found that the said Memorandum dated 02.12.2022 has been filed by the Complainant before this Authority.

12. It is also observed that the Memorandum dated 02.12.2022 is addressed to the Real Estate Appellate Tribunal and the Memorandum is filed in the form of an "Appeal" under Section 44 of the Act, 2016. Throughout the said Memorandum, the Complainant herein is addressing himself as an "appellant". In the considered opinion of this Authority, this Memorandum dated 02.12.2022 in the form of an appeal wherein the Complainant addresses himself as an "appellant" cannot be considered before this Authority in the absence of an appropriate application/form being filed under Section 31 of the Act, 2016 read with Rule 34(1) of the Rules, 2017. On this ground alone the complaint deserves to be dismissed.

13. Further, even assuming, for a moment, that there has been an inadvertent error by the Complainant, the relief prayed for by the Complainant is to *direct the Respondent No.4 herein not to issue Occupancy Rights Certificate in favor of the Respondent No.5 herein in respect of the land admeasuring Ac. 8-02 gts. in Sy. No. 4 of Pokkalwada Village, Rajendra Nagar Mandal, RR District*, which does not have subject matter jurisdiction before this Authority. The Complainant has failed to establish any violation of the provisions of the Act, 2016 or Rules thereunder by the Respondents, more specifically, Respondent No.5 which attracts any action to be initiated against the said Respondents. The very relief prayed for by the Complainant has jurisdiction before Respondent No.4 in

the facts and circumstances of the present case as they have the powers for issuance of Occupancy Certificate in accordance with the provisions of Hyderabad Metropolitan Development Authority Act, 2008.

14. In lieu of the above said observations, as the Complaint is not proper and not been filed in accordance with Section 31 of the Act, 2016 read with Rule 34 of the Rules, 2017 thereof, and as the Complaint is in the nature of an appeal filed before the Real Estate Appellate Tribunal, and for lack of jurisdiction, the present Complaint not being maintainable stands dismissed.

15. If aggrieved by this Order, the parties may approach the Telangana Real Estate Appellate Tribunal in accordance with Section 44 of the Act, 2016.



Sd/-
Sri K. Srinivasa Rao,
Hon'ble Member,
TS RERA

Sd/-
Sri Laxmi Narayana Jannu,
Hon'ble Member,
TS RERA

Sd/-
Dr. N. Satyanarayana, IAS (Retd.),
Hon'ble Chairperson,
TS RERA

TS RERA
TELANGANA REAL ESTATE REGULATORY AUTHORITY