

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

**COMPLAINT NO.17 OF 2024**

**4<sup>th</sup> Day of November 2024**

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

1. Sri Mala Brij Kumar Bhaktani  
2. Sri Satyam Brij Kumar Bhaktani ...Complainants

Versus

M/s Jayabheri Properties Pvt. Ltd.  
Represented through its Managing Director,  
Sri Kishore Duggirala ...Respondent

The present matter filed by the Complainant herein came up for hearing on 13.08.2024 and 20.08.2024 before this Authority in the presence of Ld. Senior Counsel for Complainants, Sri H. Venugopal, and Ld. Senior Counsel for Respondent, Sri E. Ajay Reddy and after hearing the arguments, this Authority passes the following order:

2. The present Complaint has been filed by the Complainants under Section 31 of the Real Estate (Regulation & 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") seeking appropriate relief(s) against the Respondent.

### **Brief facts on behalf of the Complainant**

3. The Complainants submit that they are the owners of the lands in Sy. No. 289 admeasuring Acs.3.21%, Guntas, 291 admeasuring Acs1.03 ½ gts, 292 admeasuring Acs. 3.04 14 gts, 293 admeasuring Acs. 1.28 gts, 294 admeasuring Acs. 8.13% gts, 295 admeasuring Acs. 6.08 ½ gts and 296 admeasuring Acs. 4.08 ½ gts and the total extent is Acs. 28.05 gts situated at Puppalaguda Village, Gandipet Mandal R.R. District. The Complainants are the wife and son of Late Sri Brij Kumar Bhakthani who is the son of Late Sri Mothilal Chandumal Bhakthani.

4. That the Complainants have executed registered Sale Deeds in favour of V. Ramchander Rao, VRCCR Real Infra Developers, Gurunanak Educational Society, M. Dayanand and M. Shivanand vide Registered Sale Deeds, dt; 18-04-2018 and 26-04-2018 to an extent of Acs. 17.19% gts, in Sy .No.293, 295, 296. The Complainants further informed that they came to know that some third parties have created fictitious, forged and fabricated documents in respect of the said lands and therefore they filed suits against 51 persons in OS. No. 594/2018, OS. No. 592/2018 and OS. No. 0593/2018 for declaration of title and that the above suits are pending before the Hon'ble III Additional District Judge R.R. District L.B.Nagar.

5. The Complainants submitted that in spite of pendency of the above suits, the Respondent herein suppressing the true and correct facts and without disclosing the pendency of the above suits have obtained approval/no objection from the competent authority including RERA. Since the Respondent is proceeding to developmental and construction activities pursuant to the

approval/no objection granted by the HMDA and RERA and also selling to third parties in which event, the complainant's substantial rights would be adversely affected. That further, the same equally affects the innocent purchasers who are going to purchase the flats on the wrong impression given by the Respondent as if its free from any litigation. That therefore, permission granted by HMDA and registration granted by RERA is liable to be revoked for suppression of material facts by the Respondent.

**Relief sought:**

6. Therefore, it was prayed to revoke the Registration of Respondent Project titled "Jayabheri The Pinnacle" vide No.P02400006797 dated 30.08.2023, as the Respondent has suppressed the pendency of civil disputes pending before the court.

**Reply on behalf of the Respondent:**

7. The Respondent filed its Reply on 11.06.2024 and submitted that the above complaint is not maintainable on facts or in law in view of the fact that the Complainants herein are not the Allottees or aggrieved parties to the Real Estate Project which is being undertaken by the Respondent herein.

8. It was submitted that the above Complainant does not meet the criteria for classification as an "aggrieved person" as per the provisions contemplated under Section 31. That Section 2(d) of the Act which defined allottees, the above Complainants do not fall within the specified categories of the aggrieved parties because neither they are allottees nor association of allottees or a voluntary association and as such, the Complainants herein do not meet the definition of

aggrieved persons to the real estate project of this Respondent as defined under the Act.

9. It was also submitted that the Complaint is filed through a GPA holder viz., M. Shivanand and however, said GPA holder has no *locus standi* to file the above complaint since said GPA holder did not furnish any valid document/GPA executed by the Complainants in his favour and in furtherance, said GPA holder did not obtain any prior permission from this Authority to represent the above Complaint through the GPA holder viz., M.Sivanand as contemplated under the Rule 32 of Civil Rules of Practice and as such, the above complaint itself is not maintainable and is liable to be dismissed.

10. It was also submitted that the Complainants herein have admittedly filed three Civil Suits bearing O.S.Nos.592/2018, 593/2018 and 594/2018 on the file of the Hon'ble III Addl. District Judge, Ranga Reddy District, at L.B.Nagar for declaration; (1) to declare them as absolute owners of the land in various survey numbers including the land in Sy.No.292 admeasuring Ac.3-01% guntas, situated at Poppalguda Village, Gandipet Mandal, Ranga Reddy District; (2) for Recovery of possession of said suit land; and (3) to declare the respective sale deeds pertaining to said land as null and void, wherein, they alleged that they have succeeded to the property from Motilal Chandumal by virtue of succession. In the said civil suits, the Complainants have filed interim applications for grant of ad-interim injunction, restraining the respective parties including this Respondent from changing the nature of said suit land and however, the Hon'ble Court did not grant any sort of injunction so far against this Respondent since

the Complainants have failed to establish their ownership or title in respect of said land including the subject Real Estate Project land.

11. It was submitted that this Authority is having no jurisdiction to entertain the complaint which is filed with a *mala fide* intention by overriding the pending civil dispute before the Civil Court for adjudication of title in respect of a larger extent of land including the subject Real Estate Project land of this Respondent and as such, the above complaint is not maintainable and liable to be dismissed. Further this Authority cannot adjudicate the title over the properties as a Civil Court.

12. Complainants herein have intentionally suppressed the fact of pending other two civil suits which were filed by one Smt. Jyoti Naraindas Ahuja (said to be sister of Late Brij Kumar Baktani and daughter of original owner late Motilal Chandumal) against the Complainants herein and others including this Respondent as under;

- i. O.S.No.296 of 2020 on the file of the Hon'ble IX Additional Chief Judge, City Civil Courts, at Hyderabad for Partition and allotment of half share from out of the suit schedule property including the subject project land
- ii. O.S.No.31 of 2021 on the file of the Hon'ble XXVII Additional Chief Judge, City Civil Courts at Secunderabad. Since said Smt.Jyoti Naraindas Ahuja did not secure any favourable orders in her earlier partition suit i.e., O.S No.296 of 2020, by suppressing the same, she had filed a similar Suit for similar relief of Partition in respect of very same property including the subject Real Estate Project land. The Hon'ble Court dismissed said petition vide Order dated 17-08- 2021 with a finding that,

*"In the light of the material brought on record by the contesting Defendants and in view of the annunciation of the principles laid down in the authorities the Defendants relied upon, it has to be and as such held that the Plaintiffs have miserably failed to make out prima facie case in their favour. Equally, the balance of convenience does not lie in favour of the Plaintiffs rather it lies in favour of the contesting Defendants, who are proved to be in settled possession of the properties they purchased since long time. Moreover, neither late Chandumal Bhaktani or his legal heirs for a considerable period of nearly 50 years remained mute spectators without agitating against the alienations the D13 (i.e., Hassaram) made being the GPA of late Chandumal Bhaktani leads the Court to hold that by moonshine claim the Plaintiffs appear to have been litigating for the suit properties. Therefore, the question of Plaintiffs suffering from irreparable loss or any hardship would not arise. Rather granting of temporary injunction would result into great loss and injustice to the contesting Defendants. Therefore, I hold under this point that the Plaintiffs are not entitle for the prayed injunction. In the result, the Petition is dismissed with costs"*

13. That said order became final as no appeal is preferred till-date.

14. It was submitted that the Complainants have filed the above complaint claiming that they are the legal heirs of one Sri Motilal Chandumal and succeeded to the property left by him and however, the Complainants have not filed a single authenticated document evidencing that they are the legal heirs of said original owner Motilal Chandumal and succeeded to his property by virtue of succession

and consequently, for claiming of the relief(s) in the above complaint against this Respondent subject to applicability of the RERA Act.

15. It was submitted that the Complainants, without any right or title in respect of said land, have executed a GPA in favour Madas Dayanand and Madas Shivanand and in pursuance of said GPA, said power of attorney holders and complainants herein along with their henchmen have attempted to interfere with peaceful possession and enjoyment of this Respondent in and over the said larger extent of land including the subject project land and consequently, this Respondent and others were constrained to file a Civil Suit bearing O.S.No.659 of 2018 on the file of the Hon'ble III Addl. District Judge, Ranga Reddy, at L.B.Nagar. The Hon'ble Court was pleased to pass an interim injunction vide order dated 19-06-2018 in I.A.No.573 of 2018 restraining them from interfering with the peaceful possession of this Respondent and also restraining them from alienating the same in favour the third parties vide order dated 19-06-2018 in I.A.No.574 of 2018 and said interim orders are in force.

16. It was submitted that said original allottee Motilal Chandumal, during his lifetime, through his registered GPA Holder alienated and conveyed said lands in favour of the predecessors-in-title of this Respondent way back in the year 1970 under registered Sale Deeds dated 21-07-1970 bearing document Nos.618 and 622 of 1970 and ultimately parted with the possession of this Respondent & its associates. Since said Motilal Chandumal himself ceased to have any ownership rights, title or interest, if any, in and over the said lands during his lifetime and the question of claiming any sort of ownership or title by the Complainants herein by virtue of alleged succession doesn't arise at all.

17. That the Complainants have approached this Authority with unclean hands by suppressing the material facts including the pending civil litigations before the various civil courts and filed the above frivolous complaint with a *mala fide* intention to harass and black-mail this Respondent to achieve their illegal demand under the threat of above complaint despite pendency of their claim before the Civil Courts and as such, the complainants are not entitled for any equitable relief(s) as prayed for and liable to be dismissed with costs.

### **Rejoinder**

18. The Complainants filed a rejoinder and submitted that the contentions raised by the sole respondent that the complaint is not maintainable as the complainant cannot be an aggrieved person as per Section 31 of the Act, 2016 is totally misplaced. That section 2 (zg) "Person" includes (i) an individual; (ii) a Hindu undivided family; (iii) a company etc., As per the said proviso, the complainant being an individual within the meaning of person is entitled to file a complaint and what all stated in Section 31 of the Act "Person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

19. It was submitted that there is no exclusion of any other person from filing the complaint. The said explanation is given that the association of allottees or any voluntary consumer association registered under any law for the time being in force is not there in section 2(zg). Therefore, there is no prohibition or bar for complainant to file complaint. The complainants are aggrieved persons within the meaning of Section 31 R/w Section 2(zg) of the said Act.

20. It was submitted that the Respondent gave unnecessary and unwanted details, however, conveniently and intelligently omitted to mention the pendency of the suit proceedings at the time of filing of the application before your esteemed authority which fact amounts to suppression of fact. Mere filing of legal opinion cannot be treated as part and parcel of the mandatory filling of the columns while uploading the details for obtaining of approval from your esteemed authorities. The application submitted by the Respondent goes to disclose that he deliberately stated in the column Litigations related to the project "No". This fact goes to establish that the Respondent suppressed the true facts and further in his Affidavit-cum-Declaration FORM 'B' [See Rule 3(4)] in Para 2 he stated that "*That the said land is free from all encumbrances*". All these facts goes to establish that the Respondent deliberately suppressed the said fact of pendency of the suits knowing fully well that if the same were disclosed he might not get approval from this Authority.

21. That apart the sole respondent enclosed the proceedings of the Land Reforms Tribunal and Revenue Divisional Officer, Chevella Division dt.5.11.2007 which goes to establish that to setup a false claim over the subject matter of the property and thereby he obtained the said proceedings knowing fully well that the subject matter of the lands are non-agricultural lands and the provisions of A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 is not applicable. The said proceedings are collusive and not binding on the complainants and do not confer any right, title in favour of the Respondent.

**Points for consideration:**

22. In consideration of the above rival contentions raised by the parties hereto, the following points for consideration arise for adjudication before this Authority:

- I. Whether complainant herein is an aggrieved person in terms of the provisions of the Act, 2016?
- II. Whether the Respondent has violated any provisions of the Act, 2016 read with Rules, 2017? If so, is the Respondent liable for penalty for such violation, if any?
- III. Whether the Complainant is entitled to the reliefs as prayed for? If yes, to what extent?

23. The matter was called for hearing, wherein the Complainants appeared and reiterated the contents of the Complaint. The Respondent also appeared and reiterated contents of the Reply as mentioned above. This Authority has taken into consideration the respective contentions of the parties and the documents filed thereby which form part of the record.

**Point I**

24. The Respondent submitted that the Complainants are landowners or purportedly claim to be landowners and that in accordance with Section 31 of the Act, 2016 they cannot be categorized as 'aggrieved persons' as they are not aggrieved under the provisions of this Act. He relied upon the judgment of the Hon'ble High Court of Bombay in *Yogesh Keshav Bele vs. Maharashtra Real Estate Regulatory Authority & Ors.* (Second Appeal No.432/2023, Order dt.25.08.2023), which categorically holds that,

*“14. Section 31(1) of the RERA Act uses the expression "any aggrieved person". The word "person" is defined under Section 2(28) but in Section 31(1) the said word "person" is further qualified by "aggrieved". It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceedings unless he satisfies that he falls within the category of "aggrieved person". Only a person who has suffered legal injury can challenge the act/ action/ order in a Court of law. A "legal right", means an entitlement arising out of legal rules. The phrase "aggrieved person" used in Section 31(1) of the RERA Act would mean a person who is regulated or governed by the said Act and there is an injury of the right conferred under the said Act. The phrase used in Section 31(1) is "any aggrieved person" and not "any person". The Appellant is not covered by the RERA Act and therefore he cannot be said to be an "aggrieved person" to take recourse to Section 31(1) of the RERA Act. The Appellant complainant can at the most lead evidence as witness but he cannot claim the status of an adversarial litigant. The Appellant complainant cannot be a party to the lis because no legal right is conferred on him by the RERA Act. Thus from the above analysis it is evident that the Appellant having no concern whatsoever cannot be said to have any locus standi to knock the doors of the RERA Act. The Appellant has knocked wrong door by taking recourse to RERA for redressal of his grievances.”*

25. It was also submitted that the Complainants are represented through the GPA however the said GPA has not been filed by the Complainants herein to establish the existence of such alleged GPA. The Respondent also submitted that

Complainants, without any right or title in respect of said land, have executed a GPA in favour Madas Dayanand and Madas Shivanand and in pursuance of said GPA, said power of attorney holders and complainants herein along with their henchmen have attempted to interfere with peaceful possession and enjoyment of this Respondent and consequently, this Respondent and others were constrained to file a Civil Suit bearing O.S.No.659 of 2018 on the file of the Hon'ble III Addl. District Judge, Ranga Reddy, at L.B.Nagar. The Hon'ble Court was pleased to pass an interim injunction vide order dated 19.06.2018 in I.A.No.573 of 2018 restraining them from interfering with the peaceful possession of this Respondent and also restraining them from alienating the same in favour the third parties vide order dated 19.06.2018 in I.A.No.574 of 2018 and said interim orders are in force.

26. It is well settled that the term “aggrieved person” means the person whose legal right has been violated by the actions of the Respondent which form part of his statutory obligations under the provisions of the Act, 2016. Merely stating that the Complainants are ‘person’ in accordance with Section 2(zg) does not mean they have suffered any legal injury under the provisions of the Act, 2016. Evidently, the Complainants have failed to produce any documentary evidence to state that they are aggrieved under the provisions of this Act and the actions of the Respondent, which are in violation of the provisions of the Act, 2016 or the Rules thereunder, have caused serious specific injury to the Complainants. Therefore, it cannot be said that the Complainants are aggrieved persons under in accordance with Section 31 of the Act, 2016.

27. The Respondent also asserted that the Complainants have failed to produce the GPA through which the Complainants are being represented by one Sri M. Shivanand S/o Sri M. Dayanand. It is seen that the Complainants have filed the complaint through the said GPA holder, have filed Vakalatnama through the said GPA holder, have also filed their rejoinder affidavit through this very GPA holder, however, have admittedly, failed to file any such GPA which is not permissible in law. If the Complainants stated to have been represented through a power of attorney holder, it is mandatory to file a copy of such power of attorney to establish the very fact that the complaint is being filed in accordance with due process of law.

28. It is further observed that the Complainants have failed to specifically aver to the said allegation in their rejoinder, thereby implying that no such General Power of Attorney (GPA) was executed in favor of Sri M. Shivanand by the Complainants. When an allegation is raised by the Respondent, it is incumbent upon the Complainants to specifically rebut the same, as the burden of proof regarding the execution of the GPA has shifted onto the Complainants. In the absence of a specific rebuttal to the plea advanced by the Respondent, it is to be presumed that the Complainants have no contention in this regard, and the court shall proceed on the basis of the Respondent's assertions.

29. Therefore, the present Complaint is liable to be rejected, and no reliefs, as prayed for by the Complainant, can be granted for (a) the complainant not being an aggrieved person, and (b) for not having locus standi to file the present complaint as no GPA has been filed on its behalf. Point I is answered accordingly.

## **Point II**

30. The Complainants mainly submit that the Respondent has suppressed the pendency of various suits pending between the parties amongst others and therefore, the registration granted by this Authority is liable to be revoked. The Complainant also raised certain discrepancies regarding the title flow of the subject land/project land which, being adjudicated by the courts in the suits mentioned above, cannot be adjudicated before this Authority. The Complainants also submit that the Respondent has only mentioned the pendency of these litigations in the legal opinion filed by it but has failed to show it on the website which clearly poses a direct question as to whether there are any litigations on the project land, to which the Respondent, *mala fidely*, stated 'no' putting the potential allottees at risk and suppression of material facts. Therefore, he prayed to revoke the registration in the interest of justice.

31. *Per contra*, the Respondent submitted that the Respondent has diligently uploaded the pendency of such litigations in the legal opinion as mandated under Section 4 and the same is accessible to every person who is accessing the TG RERA website. It was submitted that Rule 14(1)(a)(iii) only mandates providing details of the litigations on the subject land/project land and that such details, provided in the legal opinion, duly uploaded on the website with access to everyone does not constitute any violation of the Rule. However, said argument cannot be taken into consideration as, during the time of uploading the litigation history, the tab on the website clearly questions whether there are any litigations or not, for which the Respondent has clicked 'no' despite admitting that there is pendency of litigations in its legal opinion.

32. The Respondent has also relied upon the judgment of the Maharashtra Real Estate Regulatory Authority in *Pulin Co-Operative Housing Society Limited vs. Tirupati Developers* (Complaint No.CC006000000209962, Order dt.10.06.2024) in which it is held as under:

*“However, presuming that this complaint is maintainable before the MahaRERA, as far as the substantive omes sought by the complainant under section 7 of the RERA, it is pertinent to note that as per the provision of section 7 of the RERA, the MahaRERA registration may be cancelled if the promoter makes default in doing anything required by or under the RERA or if the promoter violates any of the terms or conditions of the approval given by the competent authority or if the promoter is involved in any kind of unfair practice or irregularities as specified under section 7(1)(a) to (c) and (A) and (B) of the RERA. However, in the instant case, as stated hereinabove, the complainant has not produced any cogent documentary evidence to show that the respondent has violated any of the terms or conditions stipulated in the provisions of section 7 of the RERA. Therefore, the prayer for revocation of projects registered by the respondent with the MahaRERA sought by the complainants is devoid of any merits. Also, the complainant has not established the fact that the respondent is involved in any kind of unfair trade practice or irregularities by submitting any order passed by the competent court of law. Moreso, the complainant has also not submitted any cogent documentary proof on record of MahaRERA i.e. any order passed by the competent authority to establish the fact that respondent has done any violation of various permissions granted by it. Hence, the relief sought by the*

*complainant under section 7 of the RERA for revocation of the MahaRERA project registration granted to the respondent is devoid of any merits.*

*23. However, in the present case, the MahaRERA has also noticed that although there is Special Civil Suit No. 358 of 2022 filed by the respondent against the complainant society seeking specific performance of the development agreement. Admittedly, the said suit is filed with respect to the project land. Although the said suit is filed subsequent to the registration of this project with MahaRERA, the same needs to be disclosed on the MahaRERA website in 'pending litigation column' as mandated under section 4 of the RERA read along with relevant rules made thereunder.*

*25. However, in compliance with principles of natural justice the respondent is directed to upload the details of pending litigation i.e., Special Civil Suit No. 358 of 2022 on the MahaRERA website in the pending litigation column within a period of 15 days from the date of this order. Failing which appropriate penal action would be taken against the respondent under section 63 of the RERA, if such non-compliance by the respondent is brought to the notice of MahaRERA by the complainant.*

33. However, it is admitted that litigation history in relation to the Project was not uploaded on the website in the manner and form as the Application under Section 4 is sought. That means, when the website clearly sought for information

as to whether there are any litigations on the subject Project, the Respondent promoter could not have clicked 'no' for an answer despite knowing there are litigations which have been elaborately enumerated in the legal opinion filed in this behalf. Merely uploading the detailed legal opinion but concealing the factum of pending litigation on the specific tab is impermissible and misleading to the general public. The primary goal of creating a web portal for the project is to provide allottees or potential allottees with easy and convenient access to readily available information. If the process becomes complicated and they are required to sift through documents, it undermines the very purpose of having the web portal.

34. Therefore, this Authority is of the considered view that the Respondent has not complied with provisions of Section 4 and Rule 14(1)(a)(iii) in the spirit and essence of the said provisions, thereby calling for penalty to be imposed on the Respondent under Section 60 of the Act, 2016. Point II is answered accordingly.

### **Point III**

35. In accordance with the discussions made in Paras 24 to 29 above, this Authority is of the considered view that the Complainant is not liable for grant of reliefs as prayed for.

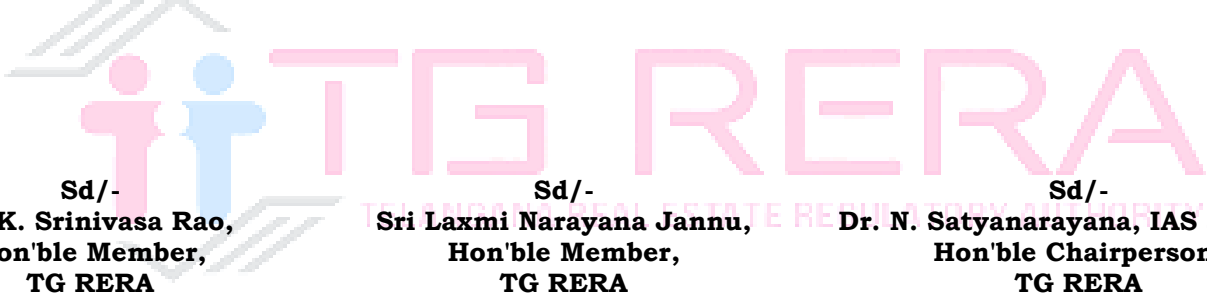
36. However, in accordance with the discussions made in Paras 30 to 34, vide this Authority's powers under Section 37 and 38, Respondent is directed as under:

- i. For misleading the general public/potential allottees by not uploading litigation status on the website, the Respondent is liable for penalty of

Rs.15,00,000/- (Rupees Fifteen Lakhs Only) payable within 30 days in favour of TG RERA FUNDS through Demand Draft or online payment to A/c No.50100595798191, HDFC Bank, IFSC Code: HDFC0007036; and

- ii. In the interest justice and for the protection of the rights of potential allottees, to upload the litigations on the TG RERA website, within a period of 7 (seven) days thereby showcasing the pendency of various civil suits including the interim orders issued therein, as mentioned above, in accordance with Section 4 read with Rule 14(1)(a)(iii), failing which appropriate action shall be initiated against the Respondent as per Section 63 of the Act, 2016.

37. Complaint is hereby disposed of. No order as to costs.



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

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

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