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

Complaint No. 238 of 2024

Dated:28th March 2025

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

1. V. Mallikarjuna Rao
(R/o Rama Mohana Rao, plot no.32, Brindavanam colony, GMR Marg road, Near Symphony park homes, Beeramguda, Hyderabad – 502319)

2. V. Kalyanachakravrthi
(R/o Rama Mohana Rao, plot no.32, Brindavanam colony, GMR Marg road, Near Symphony park homes, Beeramguda, Hyderabad – 502319)

…Complainant(s)

Versus

1. M/s Jayathri Infrastructure India Pvt Ltd

(Rep by K.Srinivasa, *plot no. 140,141, Eminent plaza, KPHB Colony, KukatpallyHyderabad)*

2. Sri Kakarla Srinivasa
(16-2-23/2, 6th floor, PNR High nest, Nizampet, Hyd – 500090) ***…Respondent(s)***

The present matter filed by the Complainants herein came up for hearing on 11.12.2024 before this Authority wherein the Complainant appeared in person. Despite service of notice, the Respondent failed to appear, and as such, was set ex parte vide order dated 1112.2024, and after hearing the Complainant, this Authority passes the following **ORDER:**

2. The present Complaint has been filed by the Complainant 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.

A. The Brief facts of the case as per allegations/averments contained in the complaint are as follows:

3. The Complainant states that he paid an amount of Rs. 27,00,000/- (Rupees Twenty-Seven Lakhs only) as a booking amount towards the purchase of a commercial unit in the

project titled "Western Galaxy", comprising a total area of 500 square feet, identified as Office No. 5/A, located on the 2nd floor, having a total built-up area of 1,00,000 square feet, along with an undivided share of land admeasuring 8 square yards (out of Ac. 4 Acres), situated in Survey No. 36/20, Gopanpally village, Serilingampally Mandal, GHMC, Serilingampally Circle, Ranga Reddy District.

4. As per the Memorandum of Understanding (MOU) dated 08.02.2021, the Respondent agreed to register a 650 square yard plot at Thimmareddygudda as collateral security in favor of the Complainant, to remain so until the handover of the commercial unit. Upon the handover of the scheduled property, the Complainant was required to return the collateral plot to the Respondent.

5. As per the MOU, the Respondent undertook to deliver a fully constructed commercial unit by December 2024.

6. However, the Respondent has failed to deliver possession of the scheduled property within the stipulated time, thereby breaching the contractual obligations and causing financial loss and hardship to the Complainant.

B. Relief(s) Sought

7. Aggrieved by the acts of the Respondent, the Complainant seeks the following reliefs:

a. Either the registration of the 500-square-foot (8 sq yards) commercial unit in the Complainant's name, as promised, or
b. Full refund of Rs. 27,00,000/- (Rupees Twenty-Seven Lakhs only) along with interest, as per the terms of the MOU, for the four-year delay and damages suffered by the Complainant.

C. Observations of the Authority:

Points for Consideration:

1. Whether the Respondent has violated section 3 of the Real Estate (Regulation and Development) Act, 2016?
2. Whether the Complainant is entitled to the relief sought?

Point 1

8. This Authority notes that over 20 similar complaints have been filed against the same Respondent concerning the same project. In prior proceedings, the Respondent's counsel submitted that due to non-compliance with the Agreement of Sale entered into with Sri M. Laxmi Kanthai and Sri V. Gowrith on 25.03.2021, a portion of the project land is under litigation before the Hon'ble Supreme Court, thereby preventing the commencement of the project. Consequently, the said project has not been registered under RERA.In Complaint No. 1037 of 2023 & batch matters, this Authority directed an inspection of the concerned project site through the Engineering Staff College of India (ESCI) vide Letter No. 1458/2023/TSRERA dated 10.10.2023. As per the ESCI report (ESCI/PD/TSRERA/07/2023-24) dated 01.12.2023, the project site remains vacant with no progress. There is no evidence to establish the Respondent's ownership or legal authority to undertake the project.

9. Further, this Authority has previously imposed a penalty of Rs. 36,70,000/- for contravening section 3 of the RE(R&D) Act, 2016 on the Respondent in Complaint No. 1037 of 2023 & batch matters, dated 12.08.2024.. Since the penalty has already been imposed in the aforementioned order, this Authority does not find it necessary to impose an additional penalty under Section 3 of the RE(R&D)Act. Thus, Point 1 is answered accordingly.

Point 2:

10. The Complainant has sought either the registration of the allotted unit or a refund of the amount paid. However, as the project does not exist anymore, the relief of registration of the unit cannot be granted. Consequently, the request for a refund of the amount along with interest merits consideration.The Respondent has failed to fulfil its contractual obligations. Section 18(1) of the Act provides that if a promoter fails to complete or is unable to give possession of an apartment or commercial space as per the terms of the agreement, the allottee has an unqualified right to seek a refund of the paid amount along with interest.

11. The provision for refund with interest applies when the promoter fails to complete the project and the allottee wishes to withdraw. The allottee is entitled to interest to safeguard their interests if the promoter fails to perform their obligations and is unable to hand over possession.

12. Attention is drawn to the decision of the Hon'ble Supreme Court of India in ***Civil Appeal Nos. 3581-359 of 2022, Civil Appeal Diary No. 9796/2019, M/s Imperia Structures Limited vs. Anil Patni & Others,*** wherein it was held:

"In terms of Section 18 of the RERA Act, if a promoter fails to complete or is unable to give possession of an apartment by the date specified in the agreement, the promoter would be liable, on demand, to return the amount received in respect of that apartment if the allottee wishes to withdraw from the project. Such a right of the allottee is 'without prejudice to any other remedy available to him'. This right is unqualified, and if availed, the deposited money must be refunded with interest as prescribed. The proviso to Section 18(1) contemplates that if the allottee does not intend to withdraw from the project, they are entitled to interest for every month of delay until possession is handed over. The allottee may proceed under Section 18(1) or the proviso thereto."

13. Similarly, in ***Civil Appeal Nos. 6745-6749 of 2021, M/s Newtech Promoters and Developers Private Limited vs. State of UP & Others***, the Hon'ble Supreme Court observed:

"Section 18(1) of the Act spells out the consequences if the promoter fails to complete or is unable to give possession of an 9 of 10 apartment, plot, or building in terms of the agreement for sale. The allottee/home buyer holds an unqualified right to seek a refund of the amount with interest as prescribed."

14. Based on the records available, the averments made by the Complainant, and the history of the Respondent's violations, it is evident that the Respondent has kept several complainants on hold for years by making false assurances regarding the registration of commercial spaces in their names. It is pertinent to note that M/s Jayathri Infrastructures has consistently violated the Act by misleading the public in multiple projects, thereby demonstrating mala fide intent.

15. Therefore, considering the aforementioned case laws and the provision of Section 18 of the RE(R&D) Act, this Authority is of the opinion that the Complainant, having invested a substantial sum in anticipation of acquiring the allotted commercial space, has been wrongfully deprived of their rights due to the Respondent's absolute failure to execute the project. Consequently, the Complainant is entitled to the relief sought, which includes a full refund of the amount paid along with applicable interest.

16. The Respondent is directed to refund the entire amount paid by the Complainant, along with interesti.e Current Highest marginal cost of State Bank of India (9%) plus 2% that is 11% per annum, calculated from the date of the Memorandum of Understanding (MOU) entered into with the Complainant until the date of actual realization. This repayment shall be completed within 90 days from the date of this order.

17. The Complainant shall return any collateral land, if applicable, to the Respondent immediately upon receipt of the refunded amount, inclusive of interest.

E. Directions of the Authority:

18. In light of the findings of the Authority as recorded above, the following directions are issued under Section 37 of the RE(R&D) Act to ensure compliance with the obligations imposed upon the promoter as per the functions entrusted to the Authority under Section 34(f) of the RE(R&D) Act:

a. The Respondent is directed to refund the entire amount paid by the complainant for the commercial spaces/units in the project "Western Galaxy" as mentioned above, along with interest of 11% per annum from the date of the Memorandum of Understanding (MOU) entered into with complainant, until the date of actual realization.
b. The refund of the entire amount shall be paid by the Respondent to the complainant within a period of 90 days from the date of this Order.
c. The complainantsshall return the collateral land, if applicable, to the Respondent immediately upon receipt of the refunded amount, inclusive of interest.

19. In light of the above findings and directions, the present complaint stands disposed of. The parties shall bear their own costs. The parties are hereby informed that failure to comply with this Order shall attract Section 63 of the RE(R&D) Act.

Sd- **Sri. K. Srinivas Rao,** **Hon'ble Member** **TG RERA**	**Sd-** **Sri. Laxmi NaryanaJannu,** **Hon'ble Member** **TG RERA**	**Sd-** **Dr. N. Satyanarayana, IAS (Retd.),** **Hon'ble Chairperson** **TG RERA**