

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

COMPLAINT NO.294 OF 2022

22nd day of July, 2024

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

Smt.Polavarapu Manisree rep by GPA holder, P.Sreedhar Rao
Sri.Gollapudi Ranjeet
J.Phani Priya
V.Prasanthi

...Complainant

Versus

M/s Ayyanna Infra Pvt.Ltd rep by MD. Sri Puralasetty Sreedhar
Sri Puralasetty Sreedhar

...Respondent

The present matter filed by the Complainant herein came up for final hearing on 18.10.2024 before this Authority in the presence of Complainants represented by P.Sreedhar Rao and authorised representative on behalf of the Respondent, as both parties agreed for settlement through mediation, while exercising its powers under section 32(g) had sent the parties for mediation. However, the said mediation failed, and the parties were called for hearing on 24.04.2024, wherein both the parties appeared, and upon hearing the arguments of the parties, 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 "RE(R&D) Act") read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules") seeking directions from this Authority to take action against the Respondent.

A. Brief Facts on behalf of the complainant:

3. The Complainant P. Manisree rep. by P Sreedhar Rao submitted that the said Claimant is the original owner of plot measuring 380 Sq Yds bearing S.No. 33,34/P.35/P,36,37,38 439 situated at Guttala Begumpet village, Serlingampally Mandal, Under GHMC Serlingampally Circle. Ranga Reddy District. The Complainant entered into a Development Agreement -cum- General Power of Attorney (herein after 'development agreement') No.5831/17 dt. 16.05.2017 in favour of M/s Ayyanna Infra (Respondents). The development agreement provided for construction of 2 cellars stilt 8 floors for residential purposes.

4. The Complainant submitted that the Respondent resorted to illegal, unlawful, fraudulent, and high-handed acts of rising 2 floors (floor 9 and 10) of the agreed building without permission of the concerned authority. because of which the property is under the threat of demolition thereby. It is submitted that the construction of the additional two floors is also against the terms of the said development agreement

5. Further, the Complainant claims that the Respondent had sent a supplementary agreement to her husband Sri Seshadri Shekar through WhatsApp and to the Complainant herself by email forcing her to sign on the Supplementary Agreement for the same. Unable to face the harassment, the Complainant had issued a General Power of Attorney in favour of her father Sri P Sreedhar Rao for prosecuting the case before the authority.

6. The Complainant had previous made complaints No. 1000920977545 and 100920977521 before the Town Planning Department of Greater Hyderabad Municipal Corporation, about the alleged 'unauthorised construction' in an area of 3000 Sq. yds. The Complainant marking other land owners namely, Sri Gollapudi Ranjeet So G Somashekara Prasad S. Sri.P.Sadagopan Smt. J Phani Priya, Smt. Ponnamm Kamala Kumari and Smt. V Prasanthi issued legal notice dt.30.09.2020 to the Respondent directing him to take immediate steps for regularisation of the additional construction and come forward with clear supplementary agreement setting apart 50% of the built-up area in the additional construction to the Complainant and all others plot owners who had entrusted their plots in good faith.

B. Relief(s) sought:

7. (1) Initiate urgent action against the Respondent for cheating, breach of trust and Obtain permission for the additional construction (namely floor 9 and 10) from fabrication of documents.

(2) the concerned authorities and set apart 50% of the constricted area to the Complainant and other plot owners as set out in the development agreement.

C. Interim Relief, if prayed for:

8. The Complainant prays the Hon'ble Authority to direct the Respondent to forthwith stop with the illegal construction of the additional floors 9 and 10. Further that the Respondent be stopped from advertising and selling the deviation and illegal construction while claiming RERA approval.

D. Respondent Reply:

9. Respondent denies any involvement in unlawful acts and states that the construction was carried out following all procedures and norms set by the concerned authorities. They assert that the construction of the 9th and 10th floors was approved after obtaining consent from the landowners and fulfilling all the necessary requirements.
10. Initially it was agreed for construction of 8 floors for residential and 2nd floors for parking and for the same we obtained GHMC permission on dated 23rd march 2019 vide permit no. I/C21/04878/2019 and RERA No: P02400001064.
11. Respondent proposed to go for additional two floors, more specifically 09th and 10th floor over and above 2 cellars + still and 8 upper floors through purchase of TDR from third parties.
12. After accepting of land owners, we applied for GHMC permission on dated 25th May 2019 for additional 2 floors vide file no. 1/C21/09701/2019. After getting the building, committee approvals and fulfilling all the procedure

of the competent authorities, we were given “Approved permissions” from GHMC vide permit no. 1/C21/03725/2021, dated 06.03.2021 and RERA Reg. for additional 2 floors vide RERA no. P02400003011.

13. It is the mandatory process of every developer in the Real Estate Industry to allocate and share the super built up area in the form of Constructed flats as per the land owners and developers ratio for the said reason the builder/developer has executed registered Supplementary deeds with the land owners and shared the super built up area for all the landowners as per their entitled share with allocation of the flats and allegations of the complainant are false and frivolous.

14. This may enable the landowners to sell their share of flats at the initial stage that is at under construction period of the proposed building as well as it helps to the builder/developers to procure the sufficient funds by selling his share of flats, for the entire construction to complete within the stipulated time frame .

15. The complainant intentionally taken GPA from his daughter without prior consent of the Respondent and making false and frivolous allegations on the Respondent and damaging its reputation. The complainant also issued certain legal notices to the builder/developer on different dates stating that the residential building is unauthorised.

16. As per the agreed and registered Development Agreement cum-General power of attorney, clause 5: However, there is no scope to go to any authorities without having sufficient mutual decisions with the Developer/Builder. Further developer is strictly adhered and complied with all the rules and regulations of the competent authorities and as per National Building code of India, 2016.

17. It is crystal clear that the complainant is intentionally creating litigation and damaging the reputation of the Promoter. Assuring that there is no fraudulent or unlawful activity on the said property at all.

E. Observations & Directions of the Authority:

18. This Authority has perused the material on record, considered the contentions raised by the parties. During the hearing, the Authority directed the Complainants and Respondents to file their respective submissions on the issue of maintainability of this complainant as raised by the Authority. However, neither of the party submitted their respective written or oral submissions on record of TGRERA.

19. Hence, before dealing with this complaint on merits, the Authority has to decide the said issue of maintainability being a preliminary issue.

20. In the present case, on the bare perusal of the averments made in this complaint, the Authority has prima facie noticed that the complainants are mainly raising an issue with respect to the illegal construction being carried out by the respondent without their authorisation. In this regard, the Authority observes that the Respondent has obtained all the sanctioned plans and necessary approvals/permissions from the competent authority. Consequently, the issue of whether the respondent has obtained any permission for carrying out construction or the manner in which the respondent obtained permissions for the construction in the said project cannot be addressed by TG RERA due to a lack of jurisdiction under the provisions of the Real Estate (Regulation and Development) Act, 2016. The Complainants can approach the appropriate forum for the aforementioned concern.


21. However, the complainant alleging that the respondent has violated the terms and conditions of the said Development Agreement seem to have filed this complaint seeking 50% of the constructed area of extra floors to the complainants. In this regard, it is pertinent to note that there is no explicit provision under RE(R&D) Act, which empowers this Authority to try and entertain the dispute which arise out of the said Development Agreement. It is for the appropriate Civil Court of law (which has jurisdiction) to deal with such disputes, which are civil in nature. Hence, both the parties need to agitate their grievances in the appropriate forum.

22. In view of these facts, this Authority prima facie feels that this complaint is not maintainable under the provisions of RE(R&D) Act, 2016.

23. In the view of these observations, the present complaint stands disposed of being not maintainable as well as on merits. Hence, no further observations to be given in this matter.

24. If aggrieved by this Order, the parties may approach the TS Real Estate Appellate Tribunal (vide G.O.Ms.No.8, Dt.11-01-2018, the Telangana State Value Added Tax Appellate Tribunal has been designated as TS Real Estate Appellate Tribunal to manage the affairs under the Act till the regular Tribunal is established) as per Section 44 of the Act, 2016.

Sd/- Sri. K. Srinivas Rao, Hon'ble Member TS RERA	Sd/- Sri. Laxmi NaryanaJannu, Hon'ble Member TS RERA	Sd/- Dr. N. Satyanarayana, IAS (Retd.), Hon'ble Chairperson TS RERA
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TS RERA
TELANGANA REAL ESTATE REGULATORY AUTHORITY