

**BEFORE THE
TELANGANA STATE REAL ESTATE REGULATORY
AUTHORITY, HYDERABAD**

COMPLAINT NO.795/2022/TSRERA

Dated: 27th September 2023

Between:-

1. **Boorgubavi Pentaiah**
2. **Boorgubavi Narsing Rao**
3. **Boorgubavi Prabhakar**
4. **Smt. Vasantha**
5. **Smt. Anasuya**
6. **B. Venkatesh**
7. **B. Lavanya**
8. **Buddi Lalitha**
9. **Smt. Bharathi**
10. **Smt. Uma**
11. **Smt. Kamma**Complainant(s)

Versus

M/s Sunyuga Infra Pvt. Ltd.Respondents

Quorum: Dr.N.Satyanarayana IAS (Rtd), Hon'ble Chairperson
Sri. K. Srinivas Rao, , Hon'ble Member
Sri. Laxmi Naryana Jannu, Hon'ble Member

Appearance: This case came up for a hearing on 27th September 2023 before this Authority. None appeared on behalf of complainant and of the Respondent party present represented by its Managing Director. After hearing the submissions made by the parties, the Authority passed the following order.

ORDER

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”) for violation and contravention of the provisions of the Act of 2016 made there under.

A. Facts of the case as stated in the complaint filed by the Complainant:

2. The Complainant has made the following submissions in the complaint:

- i. The Complainants, namely (1) Boorgubavi Pentaiah, (2) Boorgubavi Narsing Rao, (3) Boorgubavi Prabhakar, (4) Vasantha, (5) Anasuya, (6) Venkatesh, (7) Lavanya, (8) Lalitha, (9) Bharathi, (10) Uma, and (11) Kamma, are contesting in O.S. No. 161 of 2022 on the file of the Hon'ble Principal Junior Civil Judge at Medchal. This suit was filed by M/s. Sunyuga Infra Pvt. Ltd., represented by its M.D. D. Vishwanath Reddy. The said suit pertains to the above-mentioned survey numbers. During the pendency of the suit, if any permission is issued by this authority in favour of M/s. Sunyuga Infra Pvt. Ltd., it may not be valid in the eyes of the law due to the pending suit. This could lead to multiplicity of litigations and would be against the principles of natural justice. Any permission granted unilaterally by this authority without the knowledge or consent of my clients would also be against the principles of natural justice.
- ii. Furthermore, submitted that they are the absolute owners, being the legal heirs of the Original Protected Tenant named Boorgubavi Pedda Mallaiah @ Garise Pedda Mallaiah. He acquired the said property measuring Acre 11-33 Guntas in Sy.No.145, situated at Doolapally Village, vide Proceeding No. V/304/LRE/75 dated 03-06-1976, issued by the concerned authority under Section 38-E of the Protected Tenancy Act.
- iii. Also, submits that since Complainants have absolute rights in the said survey numbers, M/s. Sunyuga Infra Pvt. Ltd. is obtaining sale deeds without the knowledge or consent of Complainants. They are approaching this authority on the basis of created and false sale deeds executed by third parties who have no connection with the

scheduled survey number. Therefore, when the matter is in dispute in the civil court, this authority lacks the power to entertain or issue any permission to M/s. Sunyuga Infra Pvt. Ltd.

- iv. Consequently, requested to not issue any construction permission to M/s. Sunyuga Infra Pvt. Ltd. as the original case is pending in O.S. No. 161 of 2022, filed by M/s. Sunyuga Infra Pvt. Ltd., before the Hon'ble Principal Junior Civil Judge at Medchal. This request is valid until the conclusion of the case.

B. Relief(s) Sought:

3. The relief sought is not to grant permission to construct Sy.No. 145, situated at Dulapally Village.

C. Reply by the Respondent:

4. The Respondent by the way of written reply dated 21.02.2023 made the following submission that:

- i. The Complaint made by Ch. Dasarath Advocate on behalf of his clients Boorugubavi Pentaiah & 10 others against Respondent is beyond the scope or jurisdiction of this Hon'ble Authority. The Complaint does not fall under the definition of purchasers/allottees as per Sec. 2 (d) of RERA Act, 2016. There is no cause of action. In view of this fact, the Complaint is not maintainable and is solely made to extract money from Respondent without any legal basis.
- ii. In fact, Respondents herein filed OS No. 161/2022 against Mr. Boorugubavi Pentaiah & 4 others and obtained injunction orders in IA No. 175/20220 as they were illegally interfering with the possession of land measuring approximately Acre 04-20 Gts., in Sy. No. 145 of Dulapally Village, Gandimaisamma Dundigal Mandal, Medchal-Malkajgiri District, Telangana State. The suit was filed for perpetual injunction against the above persons, and the orders are in favour of the Respondents herein and against the Complainants.
- iii. The above order should favour Respondents, not the complainants, as they suffered adverse orders in the above suit. My client states that they have not yet applied for any permission and the

Complainants have failed to file any case against my client to establish their rights.

- iv. Unless the Complainants obtain favourable orders against Respondent herein in their favour, such complaints have no merit and can be ignored.
- v. Therefore, requesting this Authority to dismiss the Complaint on the grounds of lack of jurisdiction and cause of action.

D. Rejoinder filed by Complainant:

5. The Complainants by the way of written reply dated 30.05.2023 made the following submission that:

- i. It is stated by the respondent that a civil suit is pending, O.S.No.161 of 2022, against complainants and other third parties. Since the schedule property, which the respondent, M/s. Sunyuga Infra Pvt. Ltd., intends to develop, without the knowledge or consent of the original pattedar (Complainants), it is in dispute in a competent civil court. Therefore, this authority should reject the sanction permission sought by the respondent.
- ii. Additionally, the respondent stated in their reply that Section 2(d) of the RERA Act 2016 does not establish a cause of action. However, Section 2 of the same act is very clear that when the property is in dispute in a competent civil court, as per Section 2(zg), (zk), and zk(v), the act is applicable. Therefore, this authority has the power to reject the sanction permission filed by the respondent when the case is pending before the competent civil court. This authority should not grant permission to make construction on the schedule property until the suit is concluded.
- iii. Therefore, requesting that no permission be granted for the construction of a multi-storey building in favour of the respondent, M/s. Sunyuga Infra Pvt. Ltd., in the interest of justice.

E. Hearing Conducted

6. The matter came up for a hearing before this Authority on 27.09.2023, wherein no one appeared on behalf of the Complainant, and the Respondent Company was represented by its Managing Director.

7. During the hearing, the Respondent submitted that the Complainant is neither an allottee nor a landowner as per the documents of the local authority produced before this Authority. Subsequently, an Interim Order was issued vide I.A No. 175 of 2022 in O.S No. 161 of 2022, filed by the Respondent against the Complainant. In this order, the Hon'ble Court of PRL. Junior Civil Judge-cum-XX Additional Metropolitan Magistrate at Medchal granted an Ex-parte Order ad-interim injunction in favor of the Respondent, restraining the Complainants, their henchmen, agents, workers, relatives, legal heirs, or anyone else claiming through him from interfering with the peaceful possession and enjoyment of the Respondent over the schedule property in dispute (Sy. No. 145 of Dulapally Village).

8. Furthermore, the Respondent has not yet applied for any such permission for the said project as it is still in the land acquisition stage.

F. Directions of this Authority:

9. Based on the information provided, the Authority has determined that the Complaint in question does not satisfy the criteria for classification as an "aggrieved person" as stipulated in the 2016 Act. This determination is based on the fact that the Complainant does not fall into any of the specified categories, which include being an allottee, an association of allottees, or a voluntary association. As a result, the Complainant does not meet the definition of an aggrieved person as defined in Section 31 of the RERA Act. Section 31 is reproduced herein:

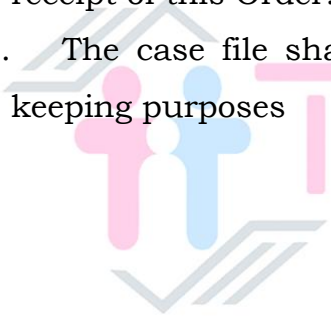
(1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter, allottee, or real estate agent, as the case may be.

Explanation. —For the purpose of this sub-section, "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

10. Therefore, in view of the provisions of the Act quoted above and I.A No. 175 of 2022 in O.S No. 161 of 2022 filed by the Respondent against the Complainant, where the Hon'ble Court of PRL. Junior Civil Judge-cum-XX Additional Metropolitan Magistrate at Medchal passed an Interim Order restricting the herein Complainant from interfering into the matters of the disputed land, the Complainant lacks the locus standi to submit the current application under Section 31 of the RERA Act, the present complaint is dismissed.

11. If any party is aggrieved by this Order, they may approach the TS Real Estate Appellate Tribunal (vide G.O Ms.no.8, dated 11.01.2018, designating the Telangana State Value Added Tax Appellate Tribunal as the TS Real Estate Appellate Tribunal to manage the affairs under the Act until the regular Tribunal is established) within 60 days from the receipt of this Order.

12. The case file shall be duly archived within the Registry for record-keeping purposes



TS RERA
TELANGANA STATE REAL ESTATE REGULATORY AUTHORITY

Sd/-

Sri. K. Srinivas Rao, Hon'ble Member
TS RERA

Sd/-

Sri. Laxmi NaryanaJannu, Hon'ble Member
TS RERA

Sd/-

Dr.N.Satyanarayana IAS (Rtd),, Hon'ble Chairperson
TS RERA