

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

COMPLAINT NO.437 OF 2023

16th November 2023

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

Sri K Chandrasekhara Reddy Complainant

Versus

Sri Venkayamma

M/s Myscape Properties

Sri Arun Kabra

.... Respondents

The present matter, bearing Complaint No. 437 of 2023, was heard before this Authority in accordance with the provisions of the Real Estate (Regulation and Development) Act, 2016, on 11th October and 9th November 2023. The hearing was conducted in the presence Respondent represented by its Counsel and none appeared on behalf of the Complainant

2. Upon careful consideration of the arguments presented by both parties, this Authority hereby issues the following **ORDER:**

3. This order is issued to address the complaint filed before this authority under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RERD Act"), in conjunction with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules"). The complaint revolves around the

interference of property, and concurrently, the Complainant has also represented the same matter against various authorities to take action against the Respondent.

4. Complainant has filed O.S. N. 552 of 2020 on the file of VIII Additional Junior Civil Judge at Kukatpally against (1.) Smt. K. Venkayamma, (2.) Myscape Properties PVT Ltd., (3). Arun Kabra, 4. Smt. Usha Kabra, in respect of land measuring 2420 Sq. ds (Ac 020 gts 20 gts), in Sy. No. 02/A situated at Nanakramguda, Serilingampally Mandal, R.R. District. The said suit is pending. He purchased the above-mentioned extent of land through sale deed No. COPPER 6341/98, dated 18-08-1998, and his vendor, T. Anil, purchased the land in Sy. No. 98 part (Ac. 1-00), land in Sy. No. 99/AA measuring Ac. 0-24 gts, and land in Sy No. 102/A measuring Ac. 01-20 gts, through sale deed No. 9107/1996 executed by D. Somalingam and his family members. Further, he submits that T. Satyanarayan Singh, who is the father of his vendor T. Anil Singh, also purchased land in Sy. No. 102/AA, measuring the Ac. 0.35 gts, vide sale deed No. 2408/1991 dated 23-3-91 from Smt. K. Danamma and others. Further, he submits that his vendor alienated an extent Ac. 0-20 gts (2420) Sq. yards to him via sale deed No. 6431/98. That Smt. K. Venkayamma and Myscape Properties Private Limited started interfering with his possession from the North side, compelling him to file O.S. No. 552/2020.

5. Further, he submits that suppressing all these facts and also the pendency of O.S. No. 552/2020 on the file of VIII Additional Junior Civil Judge, at Kukatpally, they obtained permission for construction in the above-said property. Therefore, he requests the cancellation of the building permission given in respect of 2420 Sq. yds (Ac. 0-20 gts) in Sy. No. 102/A, situated at Narayanakhed Serilingampally, (M), R.R. District, in view of the pendency of O.S. No. 552/2020 and the suppression of the factual aspects.

6. It has been observed that this Authority, under the RERD Act, lacks jurisdiction to address disputes related to property interference activities undertaken by the Respondents. Nevertheless, the Authority is of the view that the Complainant should address their concerns regarding their interference with the possession to the competent authority. The Complainant

herein has prayed this Authority to cancel the Building permissions acquired by the Respondent for the same project. However, it is to be noted that RERA provides only registration for the projects and not sanctions for the construction to take place.

7. Further, it is observed by the Authority that the Respondent, while registering its Project under TS RERA, has disclosed about the existing litigations and has not suppressed the pending litigants.

In the lieu of the above, it is observed by the Authority, on 11th October 2023 and 9th November 2023, wherein, the complainant failed to attend the hearings and in its written complaint, the Authority was unable to be convinced that a dispute between the neighboured landowner and the registered landowner of the project, concerning land interference, falls within the jurisdiction of this Authority. This Authority's jurisdiction extends only to inter se disputes between the promoter and allottee. In cases of such disputes, the complainants can seek recourse with the competent sanctioned authorities or the civil court. It is not denied that the disputed matter is already pending before the Civil Court between the present complainants and the Respondent. Therefore, if the complainants perceive any form of illegal activity on the part of the Respondent regarding their right to develop the Real Estate project with regard to land interference or land encroachment shall initially approach the Appropriate Authority.

8. Hence, this Authority is of the view that the present Complainant does not meet the criteria for classification as an "aggrieved person," as prescribed by the provisions of the 2016 Act. This determination is grounded in the fact that the Complainant does not fit within any of the designated categories outlined in the Act, which encompass being an allottee, an association of allottees, or a voluntary association. The Complainant, in this instance, has been unable to furnish the Authority with any evidentiary support or an authorization letter demonstrating his qualification as an aggrieved person in accordance with the definition articulated in Section 31 of the RERD Act. Section 31 is reproduced herein for reference:

31 (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.*

9. Given the ongoing civil litigation and the nature of the dispute, this authority is of the view that it lacks jurisdiction to adjudicate the matter at this stage. The complainant's claims are intertwined with the civil proceedings, and it is only appropriate for the civil court to decide on the ownership and possession of the property.

10. In light of the above, this authority hereby dismisses the complaint filed on the grounds of lack of jurisdiction and refers the parties to pursue their claims through the appropriate civil court. This dismissal is without prejudice to any rights the parties may have in the civil proceedings.

11. 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) within 60 days from the receipt of this Order.

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**