

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

**COMPLAINT NO.1146 OF 2023**

**29<sup>th</sup> day of April, 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. Suman Wadhwan (alias Suman Malhotra)

...Complainants

Versus

M/s Venkata Praneeth Developers Private Ltd.  
Sri Ashish Wadhawan  
M/s Satyavani Homes JV

...Respondents

The present matter filed by the Complainant herein came up for final hearing on 07.04.2024 before this Authority in the presence of Complainant and complainant advocate Dr. Hari Prasad and Advocate Sri P.Achut Rama Sastry for Respondent 1, Advocate Subrhamnyam Kurella for Respondent 2, and Advocate Anjaneyulu for Respondent 3, 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 of the complaint:**

3. It is respectfully submitted that Complainant along with her sisters are the joint owners of the property admeasuring Ac. 5.05 Guntas, situated at Survey No. 97 and 98 98. Annojiguda Village. Pocharam Municipality. Ghatkesar Mandal. Telangana (hereinafter referred to as the "Schedule Property").

4. It is respectfully submitted that without the Complainant's knowledge & consent, sham documents were fraudulently executed and registered purporting to alienate the Schedule Property under various sham transactions executed by her father and brother being Respondent No.2 and Respondent No. 3 herein and immediately upon knowing the same, the Complainant filed a suit being O.S. No. 220 of 2021 before the Hon'ble XIV Additional District Judge, Ranga Reddy seeking partition of the Schedule Property whilst consequentially praying the Hon'ble Court to cancel all the registered documents executed in respect of the Schedule Property. A copy of the plaint filed in O.S. No. 220 of 2021 is annexed herewith as Document No. 1.

5. It is respectfully submitted that the Complainant also made newspaper publications in Eenadu and Times of India on 26.06.2021 and 27.06.2021 respectively, cautioning the general public about the pending litigation before the Hon'ble District Judge, Ranga Reddy. A copy of the newspapers publications are annexed herewith as Document Nos. 2 & 3.

6. It is respectfully submitted that upon receiving the summons from the Hon'ble Court, the Respondent No. 2 along with Respondent No. 3, in favour of whom a Joint Development agreement was executed with respect to the Schedule Property, had approached the Complainant for a compromise by assuring her that she would be given her legitimate share in respect of the Schedule Property by gifting an undivided share in the proposed apartments by way of a Registered Gift Settlement Deed in her favour. In view of said compromise, Respondent No.2 at the instance of Respondent No. 3 entered into a Settlement Agreement dated 03.09.2021 with the Complainant, recording the settlement terms as contained therein. The aforesaid Settlement Agreement is herewith annexed as Document No. 4,

7. It is respectfully submitted that Respondent No. 2 further sworn to an Affidavit cum Declaration that the previous suit (i.e. O.S. No. 220 of 2021) will be settled amicably and by the virtue of the same Respondent No. 2 would execute Gift Deed of 643.86 Sq. Yards undivided share of land (out of Respondent No. 2 undivided share of land in terms the Registered Joint Development Agreement being Document No. 2770 of 2021) and further

Respondent No. 3 undertook that it shall proportionately allocate 19 Elats in Block A admeasuring 24,968 Sq.fts along with 19 car parking (out of Respondent No. 2's share as allocated in term of Supplemental Agreement read with Registered Development Agreement vide Document No. 2770 of 2021) which is proposed to be constructed in terms of the Registered Development Agreement. In the aforesaid manner, Respondent Nos 2 & 3 induced the Complainant to enter into a compromise for withdrawal of suit being O.S. No. 220 of 2021. The aforesaid Affidavit cum Declaration and Registered Joint Development agreements is herewith annexed as Document Nos. 5 to 7.

8. It is respectfully submitted that as sworn on oath and assured, Respondent No. 2 executed the Registered Gift Settlement Deed in the Complainant's favour to an extent of 643.86 Sq. Yds of undivided share of land from the Schedule Property vide Document No. 7387 of 2021 dated 04.09.2021. A copy of the said Gift Settlement Deed is annexed herewith as Document No. 8.

9. It is respectfully submitted that in view of the above mentioned compromise O.S.No.220 of 2021 was withdrawn against all the Defendants therein except for Respondent No. 2 and was referred to Lok Adalat whereat the compromise between the Complainant and Respondent No. 2 was recorded. In view thereof, the Hon'ble LokAdalat has passed an award as per the terms of the compromise. A Copy of the LokAdalat Award passed in O.S. No. 220 of 2021 is herewith annexed as Document No. 9.

10. It is respectfully submitted that Respondent Nos. 2 & 3 since inception, post receiving the summons from the court in O.S. No. 220 of 2021, in active connivance with each other have conspired and hatched a plan to cheat the Complainant's legitimate rights in the Schedule Property and induced her to withdraw the said suit filed by her seeking partition.

11. It is respectfully submitted that Respondent Nos. 2 & 3 in furtherance of their illegal acts, have without my knowledge and consent, unilaterally entered into a fresh Development Agreement Cum Irrevocable Power of Attorney vide Document No. 7296 of 2021 before Sub-Registrar Ghatkesar in

favour of Respondent No. 1 with a view to usurp the Complainant's legitimate share in the Schedule Property. Therefore, the said transaction, which is vitiated by fraud, is illegal, void ab initio & non-est in the eye of Law, thereby making the development activity carried out by Respondent No. 1 on the Schedule property, illegal and is therefore required to be stopped in order to avoid multiplicity of proceedings to protect her legitimate share in the Schedule Property, including the rights of the prospective purchasers of the developed property. A copy of the aforesaid Development agreement being Registered Document No. of 2021 is herewith annexed as Document No. 10. 7432

12. It is respectfully submitted that the Development Agreement illegally executed in favour of Respondent No. 1 and in furtherance thereof the development activity illegally now being carried on by it, is be subjected to outcome of the litigation and fraud perpetuated by Respondent No. 2 in active connivance with Respondent No. 3.

13. It is respectfully submitted that without prejudice, it is most relevant to note that even otherwise, the property gifted by Respondent No. 2 to the Complainant under the aforementioned Registered Gift Settlement Deed vide Document No. 7387 of 2021 dated 04.09.2021, clearly substantiates that the Complainant being a bona fide owner holding her legitimate share in the Schedule Property which still persists despite the fraud played by Respondents in active connivance with each other. Therefore, executing Development Agreement Cum Irrevocable Power of Attorney vide Document No. 7296 of 2021 before Sub-Registrar Ghatkesar in favour of Respondent No. 1 without my knowledge & consent will not give any right to the parties thereto.

14. It is respectfully submitted that after recording the Lokadalat Award, Respondent No. 2 in furtherance of his fraud has filed O.S. No. 2010 of 2022 before I Additional Senior Civil Judge Medchal - Malkajgiri Court seeking cancellation of the aforesaid Registered Gift Deed which was executed in the Complainant's favour, in pursuance of the Award passed by the Hon'ble Lok Adalat, dated 06.09.2021. The Respondent No. 2 has therefore initiated the vexatious and frivolous proceedings only to harass the Complainant, which is

nothing but an abuse of the due process of Law and that the proceedings are still pending before the Hon'ble Medchal Malkajgiri Court. It is further respectfully submitted that the Complainant's contention in the said suit being collusion between Respondent Nos. 2 & 3 was believed by the Hon'ble Court while of disposing the interim injunction sought by Respondent No.2 being I.A. No. 178 of 2022. A copy of the plaint filed along with the order passed in L.A. No. 178 of 2022 13. It is respectfully submitted that as per the terms of compromise recorded before the Hon'ble Lok Adalat, the Complainant had executed various Ratification Deeds to ratify the sham transactions executed by her father and Respondent No. 2 with respect to the Schedule property as stated earlier, but in view of the fraud played upon the Complainant by Respondent Nos. 2 & 3, she filed a suit seeking cancellation of the Ratification Deeds executed by her, before the 1 Additional Senior Civil Judge Medchal - Malkajgiri Court, on 06.06.2023 vide O.S No. 194 of 2023. A copy of the plaint filed in O.S No. 194 Of 2023 is annexed herewith as Document No. 13.

15. It is respectfully submitted that since the aforesaid lis in respect of the schedule property is pending before the Hon'ble Medchal - Malkajgiri Court, any transactions in respect of the part of the Schedule Property during the pendency of the said dispute would squarely be hit by the Doctrine of lis pendens resulting the same as void-ab- initio. In view thereof, the Complainant brought the aforesaid facts to the notice of Respondent No. I by way of a Legal Notice dated 21.12.2022 that the developer is not entitled to carry out or enter into any transaction or registration or development activities in respect of the Schedule Property till the above lis is adjudicated by the Court of Law. A copy of the aforesaid Legal Notice dated 21.12.2022 is herewith annexed as Document No. 14.

16. It is further submitted that after conducting a search about Respondent No. 1 Developmental activities, it came to the Complainant's utter shock that Respondent No. I has obtained real estate project approval being RERA No. P0220000478gby virtue of which, Respondent No. I started the construction

activities and is hastily in the process of creating third party rights which is subject to Lis pendens.

17. It is respectfully submitted that despite notifying the aforesaid illegal acts and fraud, the construction activities carried out by Respondent No. I tantamount to illegal construction in view of the litigations pending before the court of Law and the said approval obtained from authorities is allowing Respondent No. 1 to continue the same.

18. It is respectfully submitted that being aggrieved by the said approval, the Complainant Acknowledgement Due and E-mail which was sent on its official mail id being rera maud@telangana.gov.in. calling upon the Telangana Real Estate Regulator Authority to take proactive steps and immediate action against the illegal constructic activities carried out by Respondent No. I as approved by it, and in order to protes the Complainant's rights and interests in the schedule property as well as the righ and interests of the prospective buyers. A copy of the aforesaid Legal Notice dates 17.01.2023, Postal Receipts, Track Consignment and E- mail is annexed herewith Document Nos. 15 to 19.

19. It is respectfully submitted that the Complainant advocate sent a reminder mail o 14.02.2023 on the same E-mail Id to the RERA Authority. A copy of the aforesaid E mail dated 14.02.2023is herewith annexed as Document No. 20.

20. The Present Complaint having already been filed through legal notice dates 17.01.2023, it would be just and proper to take up the present complaint as expeditiously as possible in the interest of justice.

**B. RELIEFS SOUGHT:**

21. In view of the facts and circumstances of the above, the Complainant prays for the following relief (s).

- a. To revoke the registration being RERA No. P02200004788 granted to Respondent. No.1 as per under Section 7 of The Real Estate (Regulation and Development) Act, 2016.

- b. To publish the revocation of the RERA Approval on the RERA Website and at the Project Site.
- c. and pass such other order or orders as it may deem fit in the facts and circumstances of the case.

**C. INTERIM ORDER, IF PRAYED FOR:**

22. Pending the final decision on the complaint, the Complainant seeks issue of the following interim order

- a. To direct the Respondent No. I to stop the development activity being carried on by it immediately to avoid multiplicity of proceedings including protection of the complainant's legitimate share in the Schedule Property.
- b. To publish the aforesaid civil litigations on the RERA website to caution the general public
- c. To pass such other orders as it may deem fit in the facts and circumstances of the case.

**D. RESPONDENTS REPLY:**

**(a) COUNTER AFFIDAVIT FILED ON BEHALF OF THE 1<sup>st</sup> RESPONDENT**

23. Respondent No. 1 respectfully denies all adverse assertions made in the present Complaint vide Complaint Case No. 1146 of 2023 except those that are specifically and expressly admitted herein, and the Complainant is put to strict proof thereof with cogent documentary evidence.

24. Respondent No. 1, at the outset, respectfully submits that the present Complaint vide Complaint No. 1146 of 2023 is neither maintainable in law nor in fact; as such, it deserves to be dismissed. Moreover, the present Complaint suffers from factual and legal infirmities, namely:

- i. The Complainant is neither "an aggrieved person" nor "allottee" nor "purchaser" nor "seller" nor does she have any locus standi, nor does she disclose any clear right to sue in the Complaint. Moreover, there is no privity of contract between the Complainant and Respondent No. 1. Therefore, the Complainant has no right to lodge the present

Complaint against Respondent No. 1. Thus, this Hon'ble Authority lacks jurisdiction to entertain, try, and decide the present Complaint;

- ii. The Complaint discloses that the "5. RELIEFS SOUGHT" in the Complaint pertain to the Revocation of RERA REGISTRATION of Respondent No. 1 under Section 7 of the Real Estate (Regulation and Development) Act, 2016 ("Act No.16 of 2016") but nothing is disclosed nor any grounds for such revocation are mentioned in the Complaint. In fact, the Complaint is conspicuously silent regarding the grounds for such revocation. Moreover, the Complainant also provides no grounds for such revocation. Therefore, the present Complaint is wholly frivolous, vexatious, and not maintainable, and deserves to be dismissed;
- iii. Admittedly, even as per the assertions mentioned in the Complaint, when the Complainant had instituted the Original Suit vide O.S.No.220 of 2021 for Partition, consequential relief of cancellation of Registered Deeds and Perpetual Injunction as mentioned in the Plaint in O.S.No.220 of 2021, before the Court of the Hon'ble XIV Additional District & Sessions Judge, L.B. Nagar, and withdrew the said Original Suit, vide Withdrawal Memo Dated: 06-09-2021, thereby dismissing the said Original Suit, then the question arises: does the Complainant have any right, title, interest or possession over the Schedule Property;
- iv. Admittedly, even as per the assertions mentioned in the Complaint, when Respondent No. 2 had instituted the Original Suit vide O.S.No.2010 of 2022 against the Complainant for relief of Cancellation of Registered Gift Settlement Deed as mentioned in the Plaint in O.S.No.2010 of 2022, before the Court of the Hon'ble I Additional Senior Civil Judge, MedchalMalkajgiri& the same is pending adjudication, then where arises the Complainant having any right, title, interest or possession over Schedule Property & moreover when the lis is sub-judice before a competent Civil Court. It is



- pertinent to mention here that Respondent No. 1 herein is not a party to said O.S.No.2010 of 2022;
- v. Admittedly, even as per the assertions mentioned in the Complaint, when the Complainant had instituted the Original Suit vide O.S.No.194 of 2023 for the reliefs of Cancellation of Ratification Deeds with a consequential direction to forward the Judgment and Decree to Sub-Registrar Uppal with a direction to effect the changes in their record & Perpetual Injunction, as mentioned in Plaint in O.S.No.194 of 2023, before the Court of the Hon'ble I Additional Senior Civil Judge, MedchalMalkajgiri& the same is pending adjudication then where arises the Complainant having any right, title, interest or possession over Schedule Property & moreover when the lis is sub-judice before a competent Civil Court;
  - vi. The Complaint does not disclose any right, title, interest & possession of the Complainant over the Schedule Property, then where arises the question of entertaining the present Complaint by this Hon'ble Authority;
  - vii. Bare perusal of assertions mentioned in Complaint, more particularly Para 11 & 13 of Complaint ex-facie, discloses the serious cloud on the title of Complainant over Schedule Property & unless the competent Civil Court determines the title of Complainant over Schedule Property, where arises the question of the Complainant having any title or asserting her title before this Hon'ble Authority. The present Complainant is wholly premature in nature & the disputed questions of title cannot be gone into or adjudicated by this Hon'ble Authority. The competent Civil Court alone has jurisdiction to determine the disputed questions of title. Therefore, the present Complaint is not maintainable & liable to be dismissed;
  - viii. A bare perusal of Complaint ex-facie discloses that the allegations leveled by the Complainant in the Complaint pertain to the serious charge of "Fraud" that too in no way related to Act No.16 of 2016 & as per the provisions of Act No.16 of 2016 more particularly Section 34(2) of Act No. 16 of 2016, the nature of the inquiry to be held by

this Hon'ble Authority is "summary" in nature and this Hon'ble Authority is neither empowered nor has any jurisdiction to inquire into such serious allegations of Fraud, that too which are wholly outside the purview of Act No.16 of 2016 & it is the competent Civil Court alone, which has jurisdiction to inquire into such serious allegations of Fraud. Further, under the guise of the present Complaint, this circuitous method is adopted by Complainant for determination of her right, title, interest & possession over the Schedule Property before this Hon'ble Authority in spite pending determination of aforesaid Original Suits vide O.S.No.2010 of 2022 & O.S.No.194 of 2023 before competent Civil Court. The same is circumvention of law & wholly Impermissible. Further, what cannot be achieved directly cannot be achieved indirectly. Therefore, this Hon'ble Authority is coram non judice & lacks inherent jurisdiction to entertain, try & decide the present Complaint;

- ix. The Rule under which the present Complaint is lodged is "Rule 37(1)," as disclosed in the Complaint. But said Rule 37 provides for an "Annual Report" & not for filing the Complaint before this Hon'ble Authority. It is pertinent to mention here that the correct Rule under which a Complaint may be filed is "Rule 34" of Telangana State Real Estate (Regulation and Development) Rules, 2017. Therefore, the Rule under which the present Complaint is filed is wholly inapplicable.
- x. Respondent No. 1 respectfully submits that, insofar as assertions mentioned in Para Nos.1 to 8 are concerned, Respondent No. 1 is in no way connected or related to them. Furthermore, no allegations whatsoever are leveled against Respondent No. 1. However, it is vehemently denied that the Complainant, along with her sisters, are the joint owners of the property admeasuring Ac.5-05 gts, situated at Survey No.97 & 98, Annojiguda Village, Pocharam Municipality, Ghatkesar Mandal, Telangana ("Schedule Property"). Respondent No. 1 is not a party to O.S.No.220 of 2021 before the Court of the Hon'ble XIV Additional District Judge, Ranga Reddy District. As

such, Respondent No. 1 is in no way concerned with said Original Suit. Respondent No. 1 has neither any notice nor knowledge regarding alleged Newspaper Publications in Eenadu and Times of India, then where arises the question of Respondent No. 1 knowing the pendency of aforesaid //s. Respondent No. 1 is neither a party nor having any notice nor knowledge about the alleged Joint Development Agreement & Settlement Agreement Dated: 03-09-2021, as mentioned in Para No.4 of the Complaint. The present Complaint is lodged in collusion with Respondent No. 2 only to harass, blackmail & extort money from Respondent No. 1 for no fault of Respondent No. 1. The Complainant has approached this Hon'ble Authority with unclean hands & is guilty of suppression of material facts & material documents. Thus, the Complaint is vitiated by Fraud and Misrepresentation. The deponent to the Affidavit cum Declaration is Respondent No. 2 & Respondent No. 1 is in no way concerned to it. The Registered Joint Development Agreements bearing Document No.2770 of 2021 & 2771 of 2021 executed between Respondents No. 2 & 3 & Respondent No. 1 is in no way concerned to them. Similarly, the registered Gift Settlement Deed Dated: 04-09-2021 bearing Document No.7387 of 2021 is executed by Respondent No. 2 in favor of Complainant, and Respondent No. 1 is in no way concerned to it. The assertions mentioned in Para 8 of the Complaint are leveled against the Respondents No. 2 & 3, and Respondent No. 1 is in no way concerned to them.

- xi. Respondent No. 1 respectfully submits that, insofar as the assertions mentioned in Para 9 & 10 of the Complaint are concerned, the self-serving admissions & assertions of the Complainant ex-facie disclose that Registered Development Agreement cum Irrevocable Power of Attorney Dated: 02-09-2021 bearing Document No.7296 of 2021 is executed by Respondents No. 2 & 3 in favor of Respondent No. 1 & pursuant thereto Respondent No. 1 commenced development of Schedule Property and discharged its lawful obligations under said Registered Development Agreement in its true letter and spirit. That

the Complainant is neither a party nor signatory nor witness to said registered Development Agreement. Therefore, the same amply discloses that the Complainant is neither "an aggrieved person" nor "allottee" nor "purchaser" nor "seller" nor having any locus standi, nor any clear right to sue is disclosed in the Complaint; moreover, there is no privity of contract between Complainant and Respondent No. 1, and Complainant is altogether a Stranger. It is the Complainant who is indulging in forum shopping by invoking multiple Forums including this Hon'ble Authority, only with a view to harass, blackmail, and extort Respondent No. 1, for no fault of Respondent No. 1. When the Complainant has no semblance of right, title, interest or possession over Schedule Property then where arises any question of Complainant having any share much less legitimate share over Schedule Property. Further, the present Complaint is wholly frivolous, vexatious, sheer wastage of precious time of this Hon'ble Authority & abuse of law. The other assertions are denied in toto. Hence, the present Complaint is not maintainable before this Hon'ble Authority.

25. Respondent No. 1 respectfully submits that, insofar as the assertions mentioned in Para 11 of the Complaint are concerned, the same ex-facie disclose that the Complainant, on one hand, is asserting her title over Schedule Property by virtue of registered Gift Settlement Deed Dated: 04-09-2021 bearing Document No.7387 of 2021 executed by Respondent No. 2 in favor of Complainant in respect of the Schedule Property mentioned in said registered Gift Settlement Deed, & on the other hand, asserts that Respondent No. 2 & 3 have executed aforesaid Registered Development Agreement cum Irrevocable Power of Attorney Dated: 02-09-2021 bearing Document No.7296 of 2021 in favor of Respondent No. 1 without her knowledge and consent. The said assertions ex-facie disclose the serious cloud on the title of Complainant over Schedule Property & unless the competent Civil Court determines the title of Complainant over Schedule Property, where arises the question of the Complainant having any title or asserting her title before this Hon'ble Authority. The present Complaint is wholly premature in nature & the

disputed questions of title cannot be gone into or adjudicated by this Hon'ble Authority. It is the competent Civil Court alone which has jurisdiction to determine the disputed questions of title. The other assertions are denied in toto & present Complaint is not maintainable & liable to be dismissed.

26. Respondent No. 1 respectfully submits that, insofar as the assertions mentioned in Para 12 of the Complaint are concerned, the same pertain to said Original Suit vide O.S.No.2010 of 2022 & Respondent No. 1 is not a party to said Original Suit. Therefore, Respondent No. 1 is in no way concerned to the same.

27. Respondent No. 1 respectfully submits that, insofar as the assertions mentioned in Para 13 of the Complaint are concerned, admittedly, when the Complainant had instituted the Original Suit vide O.S.No.194 of 2023 for the reliefs of Cancellation of Ratification Deeds with a consequential direction to forward the Judgment and Decree to Sub-Registrar Uppal with a direction to effect the changes in their record & Perpetual Injunction, as mentioned in Plaint in O.S.No.194 of 2023, before the Court of the Hon'ble I Additional Senior Civil Judge, MedchalMalkajgiri& the same is pending adjudication then where arises the Complainant having any right, title, interest or possession over Schedule Property & moreover when the lis is sub-judice before a competent Civil Court. The said assertions also ex-facie disclose the serious cloud on the title of Complainant over Schedule Property & unless the competent Civil Court determines the title of Complainant over Schedule Property, where arises the question of the Complainant having any title or asserting her title before this Hon'ble Authority. The present Complainant is wholly premature in nature & the disputed questions of title cannot be gone into or adjudicated by this Hon'ble Authority. It is the competent Civil Court alone which has jurisdiction to determine the disputed questions of title. The said Original Suit is also an afterthought & the same is also not maintainable in law. Respondent No. 1, upon receipt of Suit Summons in said Original Suit vide O.S.No. 194 of 2023, has filed an interlocutory application under Order VII Rule 11 (d) of the Code of Civil Procedure, 1908 seeking Rejection of Plaint in O.S.No.194 of 2023 for the reasons mentioned therein & the same is

pending adjudication. The other assertions are denied in toto & present Complaint is not maintainable & liable to be dismissed.

28. Respondent No. 1 respectfully submits that, insofar as the assertions mentioned in Para 14 to 16 of the Complaint are concerned, mere institution of Original Suit vide O.S.No.194 of 2023 & issuance of Legal Notice Dated: 21-12-2022, Email & Reminder Email Dated: 14-02-2023 issued by Complainant to this Hon'ble Authority & addressed to this Hon'ble Authority. That neither said Notice nor those Emails nor the present Complaint discloses any grounds for revocation of Respondent's No. 1 RERA Registration. It is sine qua non that for revocation of RERA Registration under Section 7 of Act No.16 of 2016, the mandatory stipulations mentioned in said Section 7 shall be fulfilled & complied with & unless those parameters are fulfilled, this Hon'ble Authority in no circumstances can revoke the RERA Registration. In the case, none of the prerequisite stipulations enunciated in Section 7 of Act No.16 of 2016 are either pleaded or disclosed in the Complaint. The present Complaint is wholly bereft of jurisdictional facts and statutory prerequisites in invoking the jurisdiction of this Hon'ble Authority. It is made clear that none of the provisions of Act No. 16 of 2016 is either violated or contravened by Respondent No. 1.

29. Respondent No. 1 respectfully submits that the Complainant is neither entitled to any of the reliefs sought nor interim orders as prayed for in the Complaint. Therefore, the present Complaint lacks merit, and it is prayed that this Hon'ble Authority may be pleased to dismiss it with exemplary and punitive costs.

**(b) COUNTER AFFIDAVIT FILED ON BEHALF OF THE 2nd RESPONDENT**

**Mr. ASHISH WADHAWAN.**

30. Submitted that the material allegations made therein are all false, illegal, untenable, and invented for the purpose of this litigation.

31. Denied all the allegations made in the Petition filed against the Respondents, and such of those allegations that are not specifically traversed herein are deemed to have been denied, and the Petitioner put to strict proof of the same.

32. Upon plain reading of the Complaint, it is evident that the Complainant is highly mischievous, misconceived, and vexatious in nature and hence liable to be dismissed. Instead of filing a Suit for specific performance of an Agreement of Sale said to have been executed by the 3rd Respondent based on the Gift Deed executed by the Complainant's Brother, namely the 2nd Respondent herein, in favor of the Petitioner, the present Petition filed before this Hon'ble Forum is not maintainable. As such, this Hon'ble Forum has no jurisdiction to entertain the Complaint as the dispute is purely civil in nature to be decided by the Competent Civil Court. On this Ground alone, the Complaint is liable to be dismissed.

33. Even otherwise, humbly submitted that the Complainant did not approach this Forum with clean hands and filed the above Complaint suppressing several facts that are well within her knowledge. As such, the Complaint is guilty of suppression of facts and hence liable to be dismissed. I submit that this Complaint is both frivolous and vexatious aimed to harass the Respondents and to gain unlawfully for herself. Therefore, the Petition is not maintainable both under Law and fact and as such is liable to be dismissed.

34. The allegations made in Para 1 to 8 of the Petition clearly pertain to the litigation in O.S No. 220/2021 on the File of 15th Additional District Judge, MedchalMalkajgiri filed against this Respondent and her family members, including those persons in respect of whom the Petitioner's Father executed Registered Documents and the consequential Compromise decree passed between the Petitioner and this Respondent with a view to safeguard the prestige, dignity, and harmony of the family. The moment she entered into a compromise and obtained a Registered Gift Settlement Deed from this Respondent in respect of 643.86 Sq. Yards of UDS of land, she cannot ventilate her grievance based on the same allegations, that too before this Hon'ble Forum. Therefore, the allegations were made suppressing several facts, and as such, the Petition is liable to be dismissed. Even otherwise, a Compromise is made between the parties and an Award was passed before the Lok Adalath on 06.09.2021. Any grievance regarding the Lok Adalath Award is the subject matter of the litigation to

be agitated before the Competent Civil Court that passed the Decree, and this Hon'ble Forum has no Jurisdiction.

35. In respect of the allegations made in para 9 of the Petition, the same are false, and the Complainant cannot seek the revocation of Registration granted by this Hon'ble Authority. It is humbly submitted that the Complainant had entered into an Agreement of Sale with the 3rd Respondent in respect of 19 Flats to be developed by the 3rd Respondent for a sum of Rs. 7.5 Crores and already had received a sum of about Rs. 5 Crores from the 3rd Respondent. She is entitled to receive her balance Sale Consideration, and in turn, the Complainant has to execute and Register Sale Deeds in favor of the 3rd Respondent or its Nominee in respect of the flats allotted to her share. So having received the maximum portion of Sale Consideration, the Complainant is estopped from filing this Petition, and at best, she has to file a Suit for Specific Performance before the Competent Civil Court but cannot file this Petition on Flimsy Grounds. It is needless to mention that the Development Agreement and the Power of attorney executed between the 2nd & 3rd Respondents also authorizes the 3rd Respondent to execute all necessary Documents for completing the Project. Therefore, the execution of Development Agreement cum GPA in favor of the 1st Respondent by 2nd & 3rd Respondents under no circumstances can be found fault with. This Petition is filed with an ulterior motive to harass the Respondents and somehow or the other cause loss to them more particularly to this Respondent as he never yielded to her huge demands which are highly unethical, immoral and contrary to law. She had selected this Forum as a tool to arm-twist this Respondent so that he will yield to her demands, etc., Therefore, this Petition is filed purely with an ulterior motive to cause loss to this Respondent and hence is liable to be dismissed.

36. It is humbly submitted that the allegations made in Para 10 to 15 of the Petition clearly speak about the pending litigation between the Complainant and these Respondents in respect of several other properties but not related to the Property under development with the 1st Respondent.



37. At the outset, it is humbly submitted that the Complainant and 2nd Respondent are Brother and Sister. Mr. Natharam Wadhawan is the father of both the Complainant and the 2nd Respondent. Mr. Natha Wadhawan earned immovable Properties at Pocharam. The Complainant, along with her two sisters, appeared before the Sub Registrar Office and executed a Registered GPA about 25 years ago authorizing Mr. Natharam Wadhawan to deal with the Property in issue. Mr. Natharam Wadhawan made a layout of Ac. 5.00 gts covered under this litigation and sold Plots to some of the purchasers and gifted the remaining portion to the 2nd Respondent. The 2nd Respondent, along with other purchasers, has entered into Development cum GPA with 3rd Respondent. The Complainant illegally with an oblique motive filed O.S No. 220/2021 for Partition and filed the Suit against the entire Family members, Purchasers, and the 3rd Respondent. She filed the Suit a few days prior to the death of Mr. Natharam Wadhawan and also she did not attend to the Final Rituals of her late Father. However, at the intervention of mediators as well as the 34 Respondent with a condition that she will not make any claim in respect of any property belonging to the family of Mr. Natharam Wadhawan in full and final satisfaction of her share in all the Properties, she agreed to receive about 25,000 Sft., of constructed area corresponding to 643.83 Sq. Yards UDS of Land representing 18 No. of Flats. Based on the said compromise, the 2nd Respondent executed a Gift Deed for 643.86 Sq. Yards, and the terms were recorded in Lok Adalath.

38. Based on the said compromise, the Complainant entered into an Agreement of Sale with 3rd Respondent, namely the Builder, in respect of the Flats allotted to her share for Rs. 7.5 Crores and received an amount of Rs. 5 Crores from the Builder.

39. Not satisfied with the Flats she got, contrary to the assurances and settlement, she filed a separate Suit for the partition of the Property standing in the name of her mother Mrs. Shobharani Wadhawan, who is still alive, where the Property is her self-acquired property, making all false allegations. Meanwhile, since the 3rd Respondent also requires an active partner, with the consent of this Respondent, both 2nd & 3rd Respondents

entered into a Development Agreement with the 1st Respondent. It is needless to mention that the Agreement of Sale entered with the 3rd Respondent binds the 3rd Respondent as well as the 1st Respondent. The Allegations made to the contra are not true and tenable. There is no fraud played by the Respondents against the Complainant.

40. Therefore, it is humbly submitted that the Complainant is entitled to receive the Flats that were allotted to her share and the balance of Sale Consideration from the 3rd Respondent. Whereas the Complainant had also filed the Suit for cancellation of the Gift Deed for 643.86 Sq. Yards executed by this Respondent only to harass the Respondent and to gain unlawfully for herself. This Complaint is also part of the process to harass this Respondent and to yield to her terms. If the complainant is really interested in securing her Flats, she cannot seek the cancellation of RERA permission as the Respondents at no point in time denied to pay the balance Sale Consideration but insisted her to Register the Sale Deed to which she had been postponing. Thus, it is evident that the dispute involved in this litigation is purely beyond the scope of this Act as none of the Respondents had violated any terms and conditions nor committed any act contravening the provisions of RERA Act. If the Complainant is very serious about getting her property, she cannot seek cancellation of RERA Permissions but insist for completion and for payment of balance sale consideration and for execution and registration of Sale Deeds.

41. It is humbly submitted that in view of the pendency of Civil Cases between the Complainant and Respondents and the Complainant having already filed Civil Suits against the Respondents coupled with the fact of entering into an Agreement of Sale and received about a sum of Rs. 5 Crores and she cannot seek the revocation of permission to the project granted under this Act. In view of the above backgrounds of the facts and circumstances, this Complaint is not liable to be dismissed. Therefore, for all above reasons, this Respondent prays that this Hon'ble Court may be pleased to dismiss the Petition with exemplary Costs.

**(c) COUNTER FILED ON BEHALF OF RESPONDENT NO. 3**

43. Respondent No. 3 denies all the adverse allegations and claims made by the Complainant in the Complaint under reply, and the Complainant may be put to strict proof of each and every allegation made by her.

44. It is submitted that none of the pleadings shall be deemed accepted by virtue of non-traversed pleadings, except those specifically addressed to or admitted by Respondent No. 3.

45. AT THE VERY OUTSET, Respondent No. 3 states that the present Complaint filed by the Complainant on 15-09-2023 is false, frivolous, and filed with malafide intention, based on presumptions, and is not maintainable and is liable to be rejected. The Complainant has not come with clean hands and has suppressed material facts from this Hon'ble Authority. The Complainant has no reason to file this Complaint. The contents of the Complaint are denied by Respondent No. 3.

46. That, the instant complaint is not maintainable against Respondent No. 3 as framed both in fact and law. Respondent No. 3 denies and disputes all the contentions, claims, demands, allegations, averments, imputations, and insinuations of the Complainant against Respondent No. 3, save what is a matter of record and what has been specifically admitted herein.

47. That the Complainant has no cause of action to file the Complaint against Respondent No. 3. As the Complainant has not approached this Hon'ble Authority with clean hands and has suppressed material facts, hence, the captioned Complaint is liable to be dismissed. In this regard, Respondent No. 3 relies on the order passed in the case of Rashpal Singh Bahia & Others Vs Surinder Kaur and Others 2008(2) Civil Forum Cases 778 (P&H), wherein it is held that one who comes to Authority must come with clean hands. A person whose case is based on falsehood has no right to approach the Authority. He can be thrown out at any stage of the litigation. In the light of the said judgment and the fact that the Complainant has suppressed material facts and approached the Hon'ble Authority with unclean hands, the said Complaint deserves to be dismissed.

48. This Respondent No. 3 denies all the allegations, averments, submissions, and statements made in the Complaint. Further, the contents and allegations

of the present Complaint which are specifically admitted by Respondent No. 3 are true, and the rest are denied.

**(c)(i) REPLY ON MERITS**

- i. This respondent submits that an application and payment to this Hon'ble Authority for Registration were made on 14-07-2022, and the Hon'ble Authority granted Registration Certificate of Project on 01-08-2022 against the scheduled property for development of the project. By the date of filing the application and by the date of granting permission by this Hon'ble Authority, there is no lis pendency over the scheduled property. The pending cases referred to by the Complainant in her complaint are as follows:
  - a. The suit OS 220/2022 was filed on 24-04-2021 & closed on 06-09-2021.
  - b. The suit OS 2010/2022 was filed on 28-09-2022.
  - c. The suit OS 194/2023 was filed on 06-06-2023.
- ii. Without prejudice to the aforesaid and fully relying thereon, Respondent No. 3 proceeds to deal with the allegations made in the Complaint and submit its paragraph-wise reply, in the paragraphs hereinafter following:
- iii. Respondent No. 3 denies the joint ownership and rights of the Complainant in the property measuring AC 5.05 Guntas, referred to as the "Schedule Property." First of all, the Complainant must establish her right title interest ownership and possession over the Schedule Property, for which she has to approach the Civil Court. 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, and 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.
- iv. Respondent No. 3 submits that the Complainant herein filed the Complaint OS 220/2021 against Respondent No. 3 and Respondent

No.2 and others, and subsequently, the Complainant herein withdrew the OS 220/2021 against Respondent No. 3. The Complainant is put to strict proof of the allegations that some sham documents were executed behind her back, and Respondent No. 3 once again submits that this Hon'ble Authority does not have jurisdiction to decide on the allegations made by the Complainant in her Complaint.

- v. It is submitted that the averments do not require any fact-finding since the same is about the newspaper publications.
- vi. Respondent No. 3 submits that he never approached the Complainant, and at the request of the Complainant herein and Respondent No. 2, Respondent No. 3 conciliated and mediated between them for an amicable family settlement. It is Respondent No. 2 who executed a registered Gift Deed in favor of the Complainant, and Respondent No. 3 in no way got any right title interest ownership over the gifted property. The Complainant herein requested Respondent No. 3 to purchase her share of property which she got under the above-said Gift deed, and accordingly, an agreement of sale deed was executed on 03-09- 2021, wherein Respondent No. 3 paid a major portion of the Sale Consideration, and the Complainant herein failed to complete the Registration formalities for the amount which she received from Respondent No. 3. The complainant herein purposefully did not bring the above facts before this Hon'ble Authority for reasons best known to her. Out of the total agreed sale consideration of INR 7,50,00,000/- (Rupees Seven Crores Fifty Lakhs Only), Respondent No. 3 already paid more than INR 5,20,00,000/- (Rupees Five Crores Twenty Lakhs Only) to the Complainant.
- vii. Respondent No. 3 never undertook to allocate proportionately 19 flats in A block to the Complainant, and Respondent No. 3 never induced the Complainant to enter into a compromise for the withdrawal of the suit bearing OS 220/2021. She is a well-educated person and under the guidance and advice of her better half who is a businessman. Further, all these averments/aspects are to be decided/pleaded before the competent Civil Court who is having jurisdiction to decide on the acts

based on issues of Fact and Law. This Hon'ble Authority has limited jurisdiction to entertain Complaints from persons aggrieved by the project.

- viii. Respondent No. 3 submits that it is a fact that a registered gift deed was executed by Respondent No. 2 in favor of the Complainant, which was subsequently challenged before the competent civil court for cancellation under OS 2010/2022.
- ix. The contents of the Complaint were not admitted by Respondent No. 3, and in fact, the Complainant, in active connivance with Respondent No. 2, conspired and hatched a plan to cheat Respondent No. 3 and the public at large and to harass them by initiating multiple litigations to gain financially. Respondent No. 3 suspects collusion among the family members of the Complainant and defendant no. 2 initiated OS 220/2021 and now the above said Complaint. As already submitted, Respondent No. 3 will contest this Complaint by placing all true facts and documents before the Authority, and no person shall have any legal right to question the validity of the Registered General Power of Attorney executed on 09-10-1991, executed by the Complainant along with her family members and subsequently registered documents executed by the holder in favor of Respondent No. 3 and others in respect of properties referred to in the respective registered deeds. Respondent No. 3 believes that the Complainant and defendant no. 2 and their family members have knowledge about the various transactions entered into with third parties by Complainant's father based on the said General Power of Attorney dated 09-10-1991 executed by defendant no. 2 and others.
- x. Respondent No. 3 submits that it is false to allege that this defendant brought pressure on the Complainant to compromise the Complaint OS 220/2021. It is on the mutual arrangement and agreement between the Complainant and Respondent No. 2, they arrived at a compromise, and the Complainant withdrew the suit OS 220/2021, and Respondent No. 2 executed a registered gift settlement deed in favor of the Complainant. It is also alleged that Respondent No. 3 is hand in glove with

Respondent No. 2 and pressured the Complainant to compromise. It is the Complainant and Respondent No. 2 who are brother and sister and are in hand and glove with each other to gain undue financial advantage and drag Respondent No. 3 into litigation.

- xi. Respondent No. 3 submits that they suggested both the Complainant and Respondent No. 2 to arrive at a settlement in their interest to protect their family reputation.
- xii. Respondent No. 3 submits that the Complainant and her brother (i.e., Respondent No. 2) are in collusion with each other and prolonging the litigation in one way or the other with a malafide intent to harass Respondent No. 3 and gain financially. Respondent No. 3, based on the registered gift settlement deed which is under dispute in OS 2010/2022, entered into an agreement of sale with the Complainant and paid more than INR 5,20,00,000/- (Rupees Five Crores Twenty Lakhs Only) out of the total sale consideration of INR 7,50,00,000/- (Rupees Seven Crores Fifty Lakhs Only). After receiving the major portion of the sale consideration, Respondent No. 2, with the help of her sister, filed this Complaint for cancellation of the RERA and other statutory approvals and also to Cancel the registered gift settlement deed, nothing but to harass Respondent No. 3 and gain financially.
- xiii. Respondent No. 3 prays that the Hon'ble Authority safeguard his interest in the scheduled property, wherein he paid more than INR 5,20,00,000/- (Rupees Five Crores Twenty Lakhs Only) out of the total sale consideration of INR 7,50,00,000/- (Rupees Seven Crores Fifty Lakhs Only) to the Complainant. Also, pray the Hon'ble Authority to give appropriate directions to the Complainant and Respondent No. 2 in protecting his interest and money sent over the plaint schedule property.
- xiv. It is submitted that the Complainant has no prima facie grievance nor an aggrieved party to approach this Hon'ble Authority and approached this authority with unclean hands and trying to escape from a legally enforceable debt. It is further submitted that the relief as claimed is

misconceived in nature and that the Complainant is not entitled to such a relief as prayed for.

- xv. Respondent No. 3 submits that there is no cause of action for filing this complaint and that the Complainants has filed the present Complaint on the basis of assumptions and presumptions, moreover, by misleading, twisting, and misrepresenting the true and correct facts which are inadmissible and cannot be accepted. This respondent submits that the same being without any basis, the complaint of the Complainants is liable to be dismissed for want of cause of action.
  - xvi. Respondent No. 3 submits that the present Complaint is a classic example of abuse of the process of law which the Complainant is resorting to. This Respondent No. 3 further submits that the present complaint and allegations are nothing but a tissue of lies. This Respondent No. 3 submits that the present Complaint is liable to be dismissed by this honorable Authority.
  - xvii. Respondent No. 3 submits that the Complaint of the Complainant is not tenable under law or on facts, and the same is devoid of the merits, and is far from truth, and the same is liable to be dismissed. Further, this Hon'ble Authority does not have jurisdiction to entertain this complaint.
49. In view of the above submissions, Respondent No. 3 prays that this Hon'ble Authority:
- a. Reject the Complaint, as the Complainant is not an aggrieved person under the provision of the Act and its rules.
  - b. Confirm that the registration cannot be revoked as the applicant/promoter did not make any default in doing anything required by or under this Act or the rules or the regulations made thereunder; or the promoter did not violate any of the terms or conditions of the approval given by the competent authority; or the promoter is not involved in any kind of unfair practice or irregularities.
  - c. Grant reliefs against the Complainant and in favor of Respondent No. 3.
  - d. Impose exemplary costs on the Complainant to be paid to Respondent No. 3.



e. Grant such other reliefs as this Hon'ble Authority may deem fit and proper in the circumstances of this case.

59. Respondent No. 3 submits that he reserves his right to file any additional written version in the present Complaint in accordance with the law, and further, all other rights of this defendant are reserved.

**E. WRITTEN AGRUMENTS FILED BY COMPLAINANT:**

51. It is respectfully submitted that, based on the facts and circumstances outlined in the present Complaint, the Complainant, through the Registered Gift Settlement Deed vide Document No. 7387 of 2021, dated 04.09.2021 (Filed as Annexure No. 8), executed by Respondent No. 2 in favor of the Complainant in accordance with the Settlement Agreement dated 03.09.2021, was allotted 19 flats in Block A, measuring 24,968 sq. ft, along with 19 car parkings and 643.68 sq. yds of undivided share from the total area of Ac. 5.05 Guntas, located at Survey No. 97 and 98, Annojiguda Village, Pocharam Municipality, Ghatkesar Mandal, Telangana (hereinafter referred to as the "Schedule Property"), from the share of Respondent No. 2 arising out of the Joint Development Agreement bearing Document No. 2770 & 2771 of 2021, executed by and between Respondent No. 3 and Respondent No. 2 and other co-owners, dated 25.02.2021. The said fact is also admitted by Respondent No. 2 in Paragraphs 6 & 7 of the counter filed by him, wherein he specifically stated that the said flats were "allotted" to her share.

52. It is respectfully submitted that the aforementioned Gift Settlement Deed executed in favor of the Complainant was for a compromise in terms of the Settlement Agreement between the Complainant and Respondent No. 2, dated 03.09.2021 (filed as Annexure No. 4), wherein it was inter alia agreed and settled that the Complainant shall withdraw the suit filed against Respondent No. 2, Respondent No. 3 & others being O.S No. 220 of 2021 (filed as Annexure No. 1) upon the execution of the aforesaid Gift settlement Deed and all the details of the property gifted to the Complainant are clearly enumerated in the said Settlement agreement.

53. It is pertinent to note here that before executing the aforementioned Gift Settlement Deed, Respondent No. 2 had also sworn in an Affidavit cum Declaration dated 03.09.2021 (Filed as Annexure No. 5), wherein he

specifically undertook to settle the matter (being O.S No. 220 of 2021) by way of executing the aforementioned Gift settlement Deed and to proportionately allocate 19 flats in Block A measuring 24,968 sq. ft along with 19 car parkings.

54. Hence, the transaction between the Complainant and Respondent No. 2, being a promoter under the aforementioned Joint Development agreement, clearly demonstrates that the aforementioned property Gifted was for a compromise/consideration primarily to withdraw the aforementioned suit, which thereby makes her a bona fide "allottee" as contemplated under section 2(d) of the Real Estate Regulation and Development Act, 2016 (hereinafter referred to as "the Act" for brevity), which clearly states as follows:

*(d) allottee in relation to a real estate project, means the person to whom a plot, apartment, or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter but does not include a person to whom such plot, apartment, or building, as the case may be, is given on rent.*

55. The Hon'ble High Court of Bombay in Dr. Yogesh Bele Vs Maharashtra Real estate regulatory authority and others (2023 SCC OnLine Bom 1849) has held that the aggrieved person under the RERA Act could be an allottee or real estate agent or promoter or association of allottees or any voluntary consumer association registered under any law for the time being in force. It was further held that Section 31(1) of the RERA Act uses the expression "only 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 valid Act and there is an injury to the right conferred under the said Act.

56. The Hon'ble Supreme Court in Manish Kumar Vs. Union of India (UOI) and Ors (MANU/SC/0029/2021) has further held while breaking down the definition of an allottee under section 2(d) of the Act as follows:

57. If we break down Section 2(d), it yields the following component parts: An allottee may be an allottee of a plot or an apartment or a building. A real estate project may relate to plots or apartments or buildings, or plots/buildings plots/apartments.

57. An allottee in the case of an apartment, which expression includes flats among other structures, would include the following categories of persons. It would include a person to whom the apartment is allotted; it would also include a person to whom the apartment is sold, whether as freehold or leasehold.

58. Thirdly, it would include a person to whom the promoter has transferred the apartment, otherwise than by way of a sale. Lastly, it would include persons who have acquired the allotment through sale, transfer, or otherwise, with the caveat that it will not include a person to whom the apartment is given on rent. Whatever we have mentioned about apartments is equally true with regard to the allotment of plots or buildings. It is further held that, Therefore, a comparator of the provisions would show that having regard to the legislative intention the term 'allottees' as defined in Section 2(d) must be understood undoubtedly on its own terms predominantly. But at the same time, the other provisions which form part of the Act and therefore the scheme must also be borne in mind. The argument that the definition of 'allotter' suffers from over inclusiveness and under inclusiveness needs to be considered. Over inclusiveness and under inclusiveness are aspects of the guarantee under Article 14. Equals must be treated equally. Unequal's must not be treated equally. What constitutes reasonable classification may depend on the facts of each case, the context provided by the nature, the existence of an intelligible differentia which has led to the grouping of the persons or things as a class and the leaving out of those who do not share the intelligible differentia. No doubt it must bear a rational nexus to the objects sought to be achieved.

59. While under section 2(2k) of the Act, a promoter means: (i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or (ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon promoters and shall be jointly liable as such for the functions and responsibilities specified under this Act or the rules and regulations made thereunder.

60. It is respectfully submitted that, as Respondent No. 2 being one of the promoters as defined under section 2(2k), by virtue of the aforementioned Joint Development Agreements bearing Document No. 2770 & 2771 of 2021, executed by and between Respondent No. 3 and Respondent No. 2 along with other co-owners, dated, 25.02.2021, to undertake the present construction project on the scheduled property, had allotted the 19 numbers of flats in Block A. measuring 24,968 sq.ft, along with 19 number of car parkings and 643.68 sq. yds to the Complainant, by way of the aforementioned Registered Gift Settlement Deed vide Document No. 7387 of 2021, dated 04.09.2021 which was executed on the basis of the Settlement deed as mentioned hereinabove. The Complainant, therefore, without any doubt or ambiguity, in view of the said allocation which was executed in return of a settlement as explained hereinabove, is an "allottee" as defined under section 2(d) of the Act and as held by the Hon'ble Apex Court in the aforementioned Judgment.

61. It is further respectfully submitted that admittedly an Agreement of Sale was executed by the Complainant in favor of Respondent No. 3 and the said admitted factual position substantiates that the complainant is an allottee of 19 flats as contemplated under section 2(d) of the said Act.

62. While the situation stood thus, it came to the Complainant's utter shock and surprise that Respondent Nos. 2 & 3, being the Promoters under the aforementioned Joint Development Agreement bearing Document No. 2770 & 2771 of 2021, had entered into a fresh Development Agreement Cum Irrevocable Power of Attorney vide Document No. 7432 of 2021 dated,

02.09.2021 (Filed as Annexure No. 10) with respect to the Schedule Property, in favor of Respondent No. 1, which is just two days prior to the date of execution of the aforementioned Registered Gift Settlement Deed in favor of the Complainant. Respondent No. 2 & 3 had therefore, misrepresented by suppressing the aforementioned transaction with Respondent No. 1 and played fraud on the Complainant to illegally usurp the Complainant's legitimate share of 19 flats in the Schedule Property despite entering into the aforementioned Settlement agreement dated 03.09.2021 and subsequently by executing the aforementioned Gift Settlement Deed dated 04.09.2021. Hence, the said Development Agreement Cum Irrevocable Power of Attorney vide Document No 7432 of 2021, executed discreetly & fraudulently without the knowledge and consent of the Complainant is illegal, void ab initio & in the eye of Law, thereby making the development activity carried out by Respondent No. 1 on the Schedule property, illegal and is therefore required to be stopped in order to avoid multiplicity of proceedings to protect her legitimate allotted share in the Schedule Property, including the rights of the prospective allottees/purchasers of the developed property.

63. It is respectfully submitted that the aforementioned Development Agreement illegally executed in favor of Respondent No. 1 and in furtherance thereof the development activity illegally now being carried on by Respondent No. 1, is subjected to the outcome of the litigation and fraud perpetuated by Respondent No. 2 in active connivance with Respondent No. 3.

64. It is respectfully submitted that without prejudice, it is most relevant to note that even otherwise, the property gifted by Respondent No. 2 to the Complainant under the aforementioned Registered Gift Settlement Deed vide Document No. 7387 of 2021 dated 04.09.2021, clearly substantiates that the Complainant being a bona fide "allottee" holding her legitimate share in the Schedule Property which still persists, despite the fraud played by the Respondents in active connivance with each other. Therefore, executing Development Agreement Cum Irrevocable Power of Attorney vide Document No. 7432 of 2021 before Sub-Registrar Ghatkesar in favor of

Respondent No. 1 without the Complainant's knowledge & consent will not give any right to the parties thereto.

65. It is respectfully submitted that after recording the terms of settlement as per the aforementioned settlement agreement between the Complainant and Respondent No. 2, before the Hon'ble Lok Adalat and after the Lok Adalat Award dated 06.09.2021 was passed (Filed as Annexure No. 9), Respondent No. 2 in furtherance of his fraud, filed O.S. No. 2010 of 2022 before I Additional Senior Civil Judge MedchalMalkajgiri Court seeking cancellation of the aforementioned Registered Gift Settlement Deed dated 04.09.2021 which was executed in the Complainant's favor, in pursuance of the Award passed by the Hon'ble Lok Adalat, dated 06.09.2021. Respondent No. 2 has therefore initiated the vexatious and frivolous proceedings only to harass the Complainant, which is nothing but an abuse of the due process of Law and that the proceedings are still pending before the Hon'ble MedchalMalkajgiri Court. It is further respectfully submitted that the said collusion between Respondent Nos. 2 & 3 was pointed out by the Hon'ble Court while dismissing the interim injunction sought by Respondent No.2 being L.A. No. 178 of 2022 (Filed as Annexure No. 12).

66. It is most pertinent to note here that Respondent No. 2, contrary to the above-stated fact, with a malafide intention has falsely stated at Paragraph No. 12 of his Counter Affidavit filed before this Hon'ble Authority that the aforementioned suit for Cancellation of the Gift settlement deed has been filed by the Complainant. The belies and blatantly false allegations of Respondent No. 2 depict the malafides of the Respondent, thereby amounting to misrepresentation and swearing to a false affidavit before this Hon'ble Authority.

67. It is most pertinent to note here that the Complainant brought the facts and circumstances as mentioned in the Complaint and the litigations pending with respect to the scheduled property, to the notice of Respondent No. 1 by way of a Legal Notice dated 21.12.2022, stating that the developer/Promoter is not entitled to carry out or enter into any transaction or registration or development activities in respect of the

Schedule Property till the lis with respect to the schedule property is adjudicated by the Court. Respondent No. 1 has neglected the same and without paying heed to the representation made by the Complainant in the aforesaid Notice, is continuing the developmental activities irrespective of the ramifications of such illegal development. The inaction on the part of Respondent No. 1 despite receipt of the aforesaid Legal Notice dated 21.12.2022 clearly substantiates that Respondent No. 1, in active connivance with Respondent No. 2 & 3, are trying to defeat the rights of the Complainant being an allottee (the aforesaid legal notice is filed as Annexure No. 14). It is further pertinent to mention here that the Respondents having failed to disclose the aforesaid facts to the Real estate regulatory Authority, have deliberately failed to maintain transparency as mandated under the Act.

68. It is respectfully submitted that Respondent No. 1, being a Promoter under the aforementioned Development agreement dated 02.09.2021, has also admitted in para No. 3 (iii) of its Counter filed before the Hon'ble Authority that the suit instituted by the Complainant being O.S No. 220 of 2021 was pending adjudication up until 06.09.2021, therefore even as per the admission of Respondent No. 1, the Development agreement cum irrevocable power of attorney executed, in favor of Respondent No. 1 on 02.09.2021, was executed without any right or title in view of the said pending. Hence, the aforementioned Development agreement is void ab initio and nonest in the eyes of Law, thereby no right, title or obligation arises out of the said Development agreement as falsely asserted by Respondent No 1 and being devoid of any right or obligation, cannot continue the development construction activities over the Schedule Property.

69. The Respondent No. 1 having further admitted that Respondent No. 2 being one of the parties to the aforementioned Development agreement, dated 02.09.2021, had executed the aforementioned Registered Gift settlement deed dated 04.09.2021 and the pending litigations with respect to the schedule property, cannot therefore plead to have no knowledge of the said transaction and settlement entered between the Complainant and

Respondent No. 2 which is subsequent to the execution of the aforementioned sham and illegal Development agreement. 70. It is clear from the above that Respondent Nos. 1, 2, or 3 had no legal right or title to the Schedule Property. As promoters under the aforementioned illegal Development Agreement, they failed to disclose this material fact. They thereby suppressed and falsely projected their title, which does not otherwise exist, when filing their application for registration of the real estate project under section 4(2)(/) of the Act. This section mandates the submission of a declaration, supported by an affidavit, stating that the Promoter/developer has legal title to the land on which the development is proposed. The provision is reproduced below:

*(1) a declaration, supported by an affidavit, signed by the promoter or any person authorized by the promoter, stating:- (A) that they have legal title to the land on which the development is proposed, along with legally valid documents authenticating such title, if such land is owned by another person. (B) that the land is free from all encumbrances, or, as the case may be, details of the encumbrances on such land, including any rights, title, interest, or name of any party in or over such land, along with details.*

71. It is respectfully submitted that Respondent Nos. 2 & 3, being parties to the said Development agreement, though illegally executed, are the Promoters under the said Development agreement. They were fully aware of the transactions with the Complainant by virtue of which the Complainant became a bona fide allottee. This allotment persisted (and still persists) as of the date of the alleged application of Registration before the Real Estate Regulatory Authority on 14.07.2022 and when the Registration Certificate was obtained on 01.08.2022, as stated by respondent No. 3 at para No. 8 of its Counter Affidavit. They were obligated to disclose all relevant transactions/encumbrances as mandated and required under the Act to obtain Registration. The Respondent Promoters failed to do so, contravening the provisions of the Act and playing fraud upon the Authority to obtain real estate project approval.

72. Therefore, the Complainant, being an allottee by virtue of the aforementioned Gift settlement deed dated 04.09.2021 executed in terms of



the aforementioned Settlement agreement dated 03.09.2021 with Respondent No. 2/ promoter, based on the Joint development agreements bearing document No. 2770 & 2771 of 2021 dated 25.02.2021 executed prior to the aforementioned sham and illegal Development agreement bearing document No. 7432 of 2021 dated 02.09.2021, is vexed and aggrieved by the acts of the Respondents/promoters that contravene the Act. Hence, the present Complaint under sub-section 1 of section 31 of the Act is filed before this Hon'ble Authority to safeguard her rights and interests as an allottee with respect to the schedule property, as well as the prospective allottees/purchasers of the constructed property, which is essentially the purpose and purport of the Real Estate Regulation Act.

73. It is respectfully submitted that the Act confers a right to file a Complaint to any aggrieved person under section 31(1). This section states:

*"(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."*

74. With respect to the definitions contemplated under the Act, the Hon'ble Supreme Court in *Newtech Promoters and Developers Pvt. Ltd. vs. State of UP. and Ors.* (MANU/SC/1056/2021) held that:

*"26. If we turn to the power of the authority, it envisages Under Section 31, the complaints can be filed either with the authority or adjudicating officer for violation or contravention of the provisions of the Act or the Rules and Regulations framed thereunder. Such a complaint can be filed against "any promoter, allottee, or real estate agent," as the case may be, and can be filed by "any aggrieved person," and it has to be read with an explanation, "person" includes an association of allottees or any voluntary consumer association registered under any law for the time being in force. The form and manner in which the complaint is to be instituted has been provided Under Sub-section (2) of Section 31."*

75. In view of the above, the Complainant, being an "allottee" as per the definition under the Act and the Law laid down by the Hon'ble Apex Court in the aforementioned case, and further being aggrieved by the unlawful and

illegal acts of the Respondents/promoters as demonstrated hereinabove, cannot be said to be barred under the Act, as falsely projected by the Respondents, from filing a Complaint. The Hon'ble Authority is conferred with ample discretionary power to adjudicate the present Complaint to safeguard the interests of an allottee as contemplated under the Act.

76. Further, the Act being a special and beneficial legislation with the primary objective to provide regulation and development of Real estate, to protect the interests of the allottees/homebuyers/consumers, and to promote and maintain transparency in the Real estate sector, ensures a speedy remedy to persons aggrieved under the Act. This provides a supplementary and alternative remedy independent of the remedies available under other statutes. Hence, a person aggrieved, i.e., the Complainant in the present case, cannot be estopped from filing a Complaint. If such a view is taken, it would defeat the very purpose, scheme, and intent of the legislative enactment.

77. It is observed and held by the Hon'ble Supreme Court in regard to the above contest in *Manish Kumar vs. Union of India (UOI) and Ors* (MANU/SC/0029/2021) as follows:

*"The other allottees may have a different take on the whole scenario. Some of them may approach the Authority under the RERA. Others may, instead, resort to the Fora under the Consumer Protection Act, though the remedy of a civil suit is no doubt not ruled out. Ordinarily, the allottee would have the remedies available under RERA or the Consumer Protection Act, as the more effective option."*

78. It remains trite that an interpretation that defeats the scheme, intent, and object of the statutory provision is to be eschewed. If necessary, the principles of purposive interpretation rather than literal interpretation should be applied, as held by the Hon'ble Apex Court in *Amy Jain Vs. Axis Bank Limited und Ors* (2020) SCC 401 at para 28.4.

79. It is most relevant to mention here that inadvertently, the present complaint filed mentions Rule 37(1) instead of Rule. 34(1) under the Telangana State Real estate (Regulation and Development) Rules, 2017, which

is a typographical error. Therefore, the same may be pardoned by this Hon'ble Authority, and the present Complaint may be treated under Rule 34(1).

80. It is respectfully submitted that the Respondents/Promoters under the present aforementioned Development Agreement dated 02.09.2024, having provided false information to obtain the said registration and having contravened section 4 of the Act, are liable to a penalty. This penalty may extend up to five percent of the estimated cost of the real estate project, as determined by the Authority, as prescribed under section 60 of the Act.

81. Moreover, the Respondents/Promoters, being obligated under the Act to disclose the relevant information pertaining to the schedule property, thereby concealing the aforementioned transactions and misrepresenting their alleged right and title over the schedule property, have contravened the obligations under the Act. Hence, the Authority is empowered under section 18 of the Act to impose penalties and interests on the Respondents/Promoters who have fraudulently obtained Registration.

812. It is further respectfully submitted that the Respondents/Promoters, apparently having omitted to disclose the aforementioned transactions with the Complainant, thereby contravening section 4(2)(1) of the Act, have fraudulently and deceptively obtained the Registration from the Authority. This is a ground under section 7(1)(a) of the Act that empowers the authority to revoke the said Registration if it is satisfied that "(a) the promoter makes default in doing anything required by or under this Act or the rules or the regulations made thereunder".

83. Moreover, as glaringly evident from the facts and circumstances of the present case and the documents filed in support thereof, the Respondents/Promoters have clearly indulged in fraudulent practices by deceiving not just the Complainant/allottee to deprive her of her rights in the schedule property, but also the Authority, in order to obtain the aforesaid registration. In view thereof, the said registration is further liable to be revoked under section 7(1)(d) of the Act.

84. It is respectfully submitted that the Hon'ble Authority under section 7(1) of the Act is conferred with wide powers to revoke the registration under any of the grounds enumerated therein. The said provision clearly states that "(1) The Authority may, on receipt of a complaint or suo motu in this behalf or on the recommendation of the competent authority, revoke the registration granted under section 5, after being satisfied that". Hence, the Hon'ble Authority, to exercise its powers under the said provision, is in no way restricted to the present Complaint. The Hon'ble Authority may suo motu revoke the aforesaid registration to protect the interests of the Complainant herein and all the prospective allottees and any person whose interest lies in the schedule property in order to achieve the objective of the Act, which is to protect the interests of buyers/purchasers/allottees in the real estate sector. The Complainant therefore humbly prays to this Hon'ble Authority to invoke its powers under the said provision and revoke the aforesaid registration based on which the illegal development activities are carried on and the illegal transactions are further being executed. Allowing these activities would lead to transferring defective title to the prospective purchasers/buyers/allottees, leading to multiple proceedings.

85. In view of the above facts and circumstances, this Hon'ble Authority, having vested with absolute powers under section 37 of the Act, may be pleased to order/issue directions to the Respondents/Promoters to enclose details of all the pending litigations with respect to the schedule property and the transactions entered by Respondent Nos. 2 & 3/Promoters prior to the execution of the Development Agreement dated 02.09.2024, as mentioned hereinabove. This is to prevent any kind of illegal transactions and to promote and maintain transparency and protect the interests of the allottees/prospective buyers/consumers, which is the ultimate purpose and purport and objective of the Real Estate Regulation and Development Act, 2016. The Hon'ble Authority may also issue such other order/s or directions as it may deem fit in the facts and circumstances of the present case while allowing the Complainant's Complaint as prayed for, with exemplary costs against the Respondents.

## **F. Observations and Direction by the Authority:**

86. The counsels for the respondent vehemently argued that the present complaint filed by the complainant is not maintainable on the grounds that the complainant does not have the locus standi to file the complaint under Section 31 of the RE(R&D) Act, 2016 before the Authority. The complainant is neither an allottee nor privy to the concerned project agreements for the purpose of raising a complaint under the provisions of the RE(R&D) Act, 2016.

87. In contrast, the complainant claims itself to be the allottee, as the 19 flats in Block A were supposed to be allotted to the complainant as per the registered gift settlement deed, to an extent of 643.86 sq. yards of undivided share of land from the scheduled property, vide document no. 7387 of 2021 dated 04.09.2021. Hence, the complainant substantiates that they are a bona fide owner holding their legitimate share in the scheduled property. Furthermore, the aforementioned registered gift deed is challenged for cancellation by Respondent No. 2, which is pending before the Hon'ble Medchal – Malkajgiri Court.

88. At the outset, it is stated that the main purpose of this legislation is to support and safeguard the interests of allottees within the real estate sector, particularly in light of the increasing prevalence of fraudulent practices employed by builders. It is evident that the crux of the matter revolves around a title dispute, a matter beyond the purview of this Authority. The complainant asserts allottee status on the basis of a Registered Gift Deed, currently under adjudication before the Hon'ble Medchal court. Nevertheless, the Authority deems the complainant's claim as an allottee to be untenable. This determination stems from the fact that in the complaint, the complainant herself asserts to be the bona fide owner, thereby potentially classifying as the landowner rather than an allottee under the RE(R&D) Act. Further, any issues specifically regarding the terms of their development agreement or gift deeds, etc., are subject matter jurisdiction before a competent civil court and do not fall under the jurisdiction of this Authority. Moreover, because Section 11(4) enumerates the duties of the promoter, and nowhere does the Act mention the

duties of the promoter towards another promoter or landowners for which they can be made liable under the Act, 2016.

89. Further, the complainant, in its prayer, sought cancellation of the RERA registration obtained by the Promoter of the concerned project. Given the ongoing civil litigation pending before the Hon'ble courts, the Authority is of the view that, keeping in view the interest of larger allottees in the entire project, it is not inclined towards the said revocation, as the primary objective is to protect the Rights and Interests of the allottees with stipulated timelines. Hence, the Revocation may be inappropriate at this stage, and the relief sought for at this juncture does not arise.

90. The Respondent is hereby directed to upload the information regarding pending litigations on the TS RERA website, as per Rule 14(1)(a)(3) of TS RE(R&D) Rules, 2017.

91. In light of the aforementioned perspective, the Authority concludes that the present complaint is not maintainable, and accordingly, it is dismissed.

92. 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 RE(R&D) 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**