

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY,  
MUMBAI**

**Complaint No. CC005000000053967**

M/s Purushottam Narayan Gadgil

..Complainant

Versus

M/s Vision Infra Developers

..Respondent

**MahaRERA Project Registration No. P53000000151**

**Coram: Dr. Vijay Satbir Singh, Hon'ble Member - 1/MahaRERA**

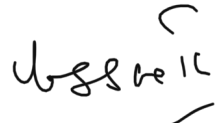
Adv. N.B.Kulkarni a/w Adv. Suhas Deokar appeared for the complainant.

Adv. Leena Kaulgekar appeared for the respondent.

**ORDER**

(21<sup>st</sup> September, 2020)  
(Through Video Conferencing)

1. The complainant has filed this complaint seeking review of the interim order dated 23-12-2019 passed by MahaRERA in earlier complaint No. CC00500000022102 whereby the said complaint was transferred to the Ld Adjudicating Officer, Pune/ MahaRERA for appropriate decision under section 14 (3) of the Real estate (Regulation & Development) Act, 2016 (hereinafter referred to as 'RERA') in respect of booking of a shop in the respondent's registered project known as "Runwal Tower" bearing MahaRERA registration No. P53000000151 at Ichalkaranji, Kolhapur.
1. This complaint was heard finally today as per the Standard Operating Procedure dated 12/06/2020 issued by MahaRERA for hearing of complaints through video conferencing. The parties were issued prior intimation for the hearing and were also informed to submit their written submission if any. Accordingly, both the parties appeared and made their respective oral as well as written submissions on record.



2. It is the case of the complainant that the present review application is filed by filing this separate complaint as per the provisions of RERA and the Rules and Regulations made there under seeking review of the interim order dated 23-12-2019 passed by the MahaRERA in the earlier complaint No. CC00500000022102 whereby the said complaint was referred to the Ld Adjudicating Officer, MahaRERA Pune for adjudging compensation under section 14(3) of the RERA. However, the said order was passed without following the principles of natural justice as no opportunity of hearing was awarded to the complainant. It has stated that it could not be served with the notice of the said hearing as its computer was not functional. Even, in the said complaint it has sought other reliefs under sections 18 and 19 of the RERA seeking directions to the respondent to pay interest for the delayed possession. Hence the complainant prayed to recall the said interim order passed by the MahaRERA under the provision of Regulation 36 of the Maharashtra Real Estate Regulatory Authority (General) Regulations 2017.
3. The respondent on the other hand resisted the claim of the complainant by raising issue of maintainability and stated that this review has no legal substance as it is an administrative order and nothing has been decided by the MahaRERA on merits which requires a review. Further there is no loss caused to the complainant if it is transferred to the Ld. Adjudicating Officer, MahaRERA, Pune. It has further stated that since the complainant in the said complaint sought compensation under section 14(3) of the RERA it has been rightly transferred for adjudication. Even the grounds of review stated by the complainant are lame excuses given by the complainant, when the RERA is very clear that the compensation has to be decided by the Ld. Adjudicating Officer MahaRERA under section 71 of the RERA. Moreover, it is an interim order passed by the MahaRERA and hence the Regulation 36 would apply for final order. Therefore the respondent prayed for dismissal of this review application filed through this separate complaint.

4. The MahaRERA has examined the arguments advanced by both the parties as well as the record. The complainant by filing this complaint is seeking review of the interim order dated 23-12-2019 passed by the MahaRERA in the earlier complaint filed by the complainant bearing complaint No. CC00500000022102. By the said interim order the said complaint was referred to the Ld Adjudicating Officer, MahaRERA, Pune for adjudging the quantum of compensation under section 14(3) of the RERA. Admittedly, the complainant has taken possession of its shop long back before filing of the said earlier complaint. The complainant has alleged that it has sought other reliefs under sections 18 and 19 of the RERA and therefore the MahaRERA and not the Adjudicating Officer has power to deal with such cases.
5. In this regard, the MahaRERA is of the view that the complainant has already taken possession of its shop and if the possession was not handed over to the complainant as per the terms and conditions of the agreement for sale entered into between the parties, then the complainant should have given up the same should have refused to take the same. Hence now the complainant cannot seek any directions from MahaRERA under section 18 of the RERA.
6. In this regard, the MahaRERA has perused the provisions of Regulation 36 of the Maharashtra Real Estate Regulatory Authority (General) Regulations 2017, wherein an order of the Authority can be reviewed. The said regulations reads as under :

***“36(a) Any person aggrieved by a direction, decision or order of the Authority, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was***

*passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Authority.*

7. In view of the aforesaid explicit provision prescribed under Regulation 36, it is clear that an order passed by MahaRERA can be reviewed only if there are new facts discovered or any important matter or evidence which was not within the knowledge of the parties or could not be produced by them at the time when the order was passed. However, in the present case, the MahaRERA has passed an interim order on 23-12-2019 referring the said complaint to Ld. Adjudicating Officer, MahaRERA for deciding the quantum of compensation since the complainant has sought compensation under section 14(3) of the RERA. The said interim order was not a reasoned order passed on merits. Hence the MahaRERA feels that no review is required to be done in this case.



8. Moreover the MahaRERA feels that the Ld. Adjudicating Officer has power to grant interest as well as compensation as provided under section 71(3) of the RERA. Hence the complainant is always at liberty to agitate all its grievances before the Ld. Adjudicating Officer, MahaRERA, which can be dealt with in accordance with the provisions of RERA and the Rules and Regulations made there under.
9. With the above observations review application cum complaint stands dismissed.

A handwritten signature in black ink, appearing to read 'Dr. Vijay Satbir Singh', is written over a horizontal line.

(Dr. Vijay Satbir Singh)  
Member - 1/MahaRERA