

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,
3rd Cross, Mission Road, Bengaluru-560027

PROCEEDINGS OF THE AUTHORITY

Dated 04th of November 2019

Ref:	CMP/190806/0003821
Complainant	Shri. Murali G.M. No. 115, Nagappa Sreet, Opp Cocunet Oil Mill, Gunjur Post, Bengaluru - 560087.
Promoter / Project Name:	Prestige Habitat Ventures, Prestige Lakeside Habitat No. 28/2, SH 35, Devasthanagalu, Gunjur Village, Varthur Hobli, Bengaluru - 560 087.

The complainant by name **Shri. Murali G.M.**, Bengaluru has filed a complaint under Section 31 of the Act, alleging that the developer of the Project "**Prestige Habitat Ventures**", Gunjur village, Varthur Hobli, Bengaluru has not disclosed the dispute of land and pendency in Civil Court, to which Acknowledgment number has been allotted as CMP/190806/0003821. This application was filed on 06/08/2019.

Facts of the Complaint:

The above said complainant has filed a complaint before this Authority alleging that the developer has not declared the dispute about land and pendency of case in Civil Court. The complainant is seeking relief for revocation of the project registration with RERA. The jurisdiction of the Adjudicating Officer is not covered for such relief. Hence, the case was transferred to hear by the Authority.

Accordingly, the Authority heard the case on 11/09/2019, 23/09/2019 and on 30/09/2019. The complainant was present and the respondent was absent on 11/09/2019 and on 23/09/2019. The Complainant and the respondent were present before the Authority on 30/09/2019 and have submitted documents in support of their arguments.

Section 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 there under against any promoter, or real estate agent, as the case may be.

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25/11/2019

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In the present case, the relief sought by the complainant is for revocation of RERA registration of the project 'Prestige Lakeside Habitat' developed by M/s Prestige Habitat Ventures alleging that the developer has not disclosed the dispute of land and pendency of case in Civil Court. During the hearings, the advocate representing the complainant submitted a copy of the judgment of the High Court of Karnataka dated 17th July 2019 in the case MFA No. 3772 of 2019 (CPC/SJ) between Shri Munirajappa and 73 others. The Order dated 17/07/2019 of the High Court of Karnataka in the said MFA case is:

"The appellant's counsel submits that when he files the appeal, he also made an application for temporary injunction. Since IA NO.1/2019 for temporary injunction was not put up, this Court ordered for issuance of notice to respondents. He further submits that the appellants' apprehend that the respondents are likely to alienate the property taking advantage of the impugned order. It is his further submission that the trial court had granted an order of status quo with regard to alienation and it was in force till the impugned order was passed. In para 6 of the impugned order it is stated that on 16.05.2016, both the parties were directed to maintain status quo with regard to alienation of item Nos.1 to 3 of the suit properties. Having regard to these circumstances, the parties are directed to maintain status-quo with regard to alienation."

In response to the complainant allegations, the respondent through his lawyer, has submitted his written objections dated 28/10/2019 and stated that the complaint is not maintainable in law and the complainant has no locus standi to file complaint under section 31 of the Real Estate (Regulation and Development) Act, 2016 as the complainant is not an 'Aggrieved Person'. The respondent further submits that the order passed in MFA No. 3772/2019, the complainant's father had filed O.S. No.907/2015 and moved interlocutory application for temporary injunction which came to be dismissed, and that the complainants aggrieved by the dismissal of Interlocutory Application preferred an Appeal before the Hon'ble High Court in MFA No. 3772/2019. The complainant further states that the 4 properties mentioned in the Order on MFA No. 3772/2019, the 4th item bearing Sy. No. 204/5 measuring 1 acre 37 guntas in Gunjuru illage, Varthuru Hobli, Bengaluru East Taluk is a portion of project Prestige Lakeside Habitat developed by the respondent and that Prestige Habitat Ventures the developer of the project is not a party to the proceedings either in O.S. No. 907/2015 or in MFA No. 3772/2019 and has no knowledge of the proceedings. Hence the question of disclosing the same in the application does not arise.

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The respondent further submits that as per the ownership documents the land in question was owned by Trishul Buildtech & Infrastructures. The Trishul Developers Buildtech & Infrastructures and other land owners have entered into Joint Development agreements with the Prestige Habitat Ventures for developing their lands including the land bearing Sy. No. 204/5 measuring 1 aces 37 guntas forms part of the development and that the development of entire project is completed and the statutory authority have also issued Occupancy Certificate for the project.

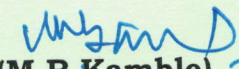
The respondent also submits that the suit O.S. No. 907/2015 is still pending and the Order passed by the Hon'ble High Court of Karnataka in MFA No. 3772/2019 is only on the Interlocutory Applications and that the complaint without getting his right declared in O.S. No. 907/2015 has filed the complaint with RERA in order to harass the respondent.

The Authority observed that the complainant is not seeking any personal relief and is not an aggrieved person. Therefore, the complainant does not come within the purview of aggrieved person as mentioned in Section 31 (1) of the Act. The present complaint is not sustainable for lack of Jurisdiction and as such the Authority proceed to pass the following:

ORDER

The complainant is not a allottee of the project. The complaint is of land dispute and as such he has to approach the competent authority to redress his grievances. Therefore, the complaint filed by the complainant bearing No. CMP/190806/0003821 against the developer M/s. **Prestige Habitat Ventures** of the Project "Prestige Lakeside Habitat" at No. 28/2, SH 35, Devasthanagalu, Gunjur Village, Varthur Hobli, Bengaluru is hereby dismissed as this Authority has no jurisdiction to try this matter.

The Complainant is at liberty to approach the competent authority for his grievances about land dispute.


(M.R Kamble) 25/11/2019
Chairman
K-RERA