



**IN THE COURT OF ADJUDICATING OFFICER,  
REAL ESTATE REGULATORY AUTHORITY (RERA)  
6<sup>TH</sup> FLOOR, BIHR STATE BUILDING CONSTRUCTION CORPORATION BUILDING  
HOSPITAL ROAD, SHASTRI NGAR  
PTNA-800023**

**1. RERA/CC/467/2019  
RERA/AO/119/2019**

Sri Irfan Sajid, s/o Md. Sanaullah Ansari,  
r/o Sonarkhap, P.O.-Matpa, P.S.-Kutumba,  
District-Aurangabad (Bihar, PIN-824119

... Complainant

Versus

1. M/s “Hyde Park Buildcon” Buildcon,  
401, Fazal Imam Complex, Frazer Road,  
P.O.-G.P.O., P.S.-Kotwali, District-Patna.
2. M/s Shital Buildtech Pvt. Ltd., 4<sup>th</sup> Floor,  
Fazal Imam Complex, Near Patna  
Central Mall, Frazer Road, Dak  
Bungalow, Patna-800001.
3. Md. Saahil Rizwi, s/o Md. Qayum Ansari  
(one of the Partners in M/s “Hyde Park  
Buildcon” and one of the Directors in  
M/s Shital Buildtech Pvt. Ltd.), 4<sup>th</sup> floor  
Fazal Imam Complex, Near Patna  
Central Mall, Frazer Road, Dak  
Bungalow, Patna-800001.
4. Md. Yasir Immam (one of the Partners in  
M/s “Hyde Park Buildcon” and one of  
the Directors in M/s Shital Buildtech  
Pvt. Ltd.), 4<sup>th</sup> Floor Fazal Imam Complex,  
Near Central Mall, Frazer Road, Dak  
Bungalow, Patna-800001.

... Respondents

**2. RERA/CC/478/2019  
RERA/AO/118/2019**

Md. Moin Raza @ Moin Raza, s/o Md.  
Saeed, r/o Satgawan, P.S.-Amba, District-  
Aurangabad, Bihar-824119.

... Complainant

Versus

1. M/s “Hyde Park Buildcon” Buildcon, 401, Fazal Imam Complex, Frazer Road, P.O.-G.P.O., P.S.-Kotwali, District Patna.
2. M/s M/s Shital Buildtech Pvt. Ltd.), 4<sup>th</sup> floor Fazal Imam Complex, Near Patna Central Mall, Frazer Road, Dak Bungalow, Patna-800001.
3. Md. Saahil Rizwi, s/o Md. Qayum Ansari (one of the Partners in M/s “Hyde Park Buildcon” Pvt. Ltd. and one of the Directors in M/s Shital Buildtech Pvt. Ltd.), 4<sup>th</sup> floor Fazal Imam Complex, Near Patna Central Mall, Frazer Road, Dak Bungalow, Patna-800001.
4. Md. Yasir Immam, (one of the Partner in M/s Hyde Park Buildcon Pvt. Ltd. and one of the Directors in M/s Shital Buildtech Pvt. Ltd.), 4<sup>th</sup> floor Fazal Imam Complex, Near Patna Central Mall, Frazer Road, Dak Bungalow, Patna-800001.

...

Respondents

**3. RERA/CC/479/2019**  
**RERA/AO/120/2019**

1. Md. Irfan Sajid.
2. Md. Quasim Akhtar  
- Both sons of Sanaullah Ansari, r/o Village Sonarkhap, P.O. Matapa, P.S.-Kutumba, District-Aurangabad (Bihar), Patna-824119.

... Complainants

Versus

1. M/s Hyde Park Buildcon, 401, Fazal Imam Complex, Frazer Road, P.O.-G.P.O., P.S.-Kotwali, District Patna.
2. M/s Shital Buildtech Pvt. Ltd., 4<sup>th</sup> floor Fazal Imam Complex, Near Patna Central Mall, Frazer Road, Dak Bungalow, Patna-800001.
3. Md. Saahil Rizwi, s/o Md. Qayum Ansari (one of the Partners in M/s Hyde Park Buildcon Pvt. Ltd. and

one of the Directors in M/s Shital Buildtech Pvt. Ltd.), 4<sup>th</sup> floor Fazal Imam Complex, Near Patna Central Mall, Frazer Road, Dak Bungalow, Patna-800001.

4. Md. Yasir Immam, (one of the Partner in M/s Hyde Park Buildcon Pvt. Ltd. and one of the Directors in M/s Shital Buildtech Pvt. Ltd., 4<sup>th</sup> floor Fazal Imam Complex, Near Patna Central Mall, Frazer Road, Dak Bungalow, Patna-800001. ... Respondents

**Present:**

**Sri Ved Prakash  
Adjudicating Officer**

**Appearance:**

For Complainants : Sri Kishore Kunal, Advocate

For Respondents : 1. Sri Binod Kumar Sinha, Advocate  
2. Miss Akansha, Advocate  
3. Sri Brisketu Sharan Pandey, Advocate  
4. Sri Punit Kumar, Advocate

**ORDER**

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In view of the fact that above 3 complaint cases relate to the same project “Hyde Park” of the Promoters/Respondents and allegations are similar in nature, so a composite order is being passed in all these 3 cases.

2. These complaint cases are filed by the complainants named above against Respondent No.1, M/s Hyde Park Buildcon Pvt. Ltd., Respondent No.2, M/s Shital Buildtech Pvt.

Ltd., Respondent No.3, Md. Saahil Rizwi and Respondent No.4, Md. Yasir Immam u/s 31 read with Section 71 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as the "Act, 2016) for refund of their advanced principal amount along with accrued interest @ 20% thereon and compensation Rs.5.00 lacs for their mental and physical harassment with litigation cost of Rs.1.00 lacs to each complainant, consequent to non-delivery of their allotted flats.

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3. Before discussion of facts of the complainant cases, it is important to mention that the complainant Md. Irfan Sajid of complaint case no.467/2019 has filed this case himself, but complainant, Md. Moin Raza @ Moin Raza has filed the complaint case No.478/2019 through Power of Attorney/Authorisation Letter dated 28-06-2019 executed in favour of Md. Irfan Sajid. In like manner, the complaint case no.479/2019 has been filed by the complainant Md. Irfan Sajid and Md. Quasim Akhtar, wherein Md. Quasim Akhtar has executed Power of Attorney/Authorisation Letter dated 02-07-2019 in favour of Md. Irfan Sajid. In this way, Md. Irfan Sajid either himself or through Power of Attorney has filed all these 3 cases against the above Respondents.

4. In nutshell, the common case of the complainants is that Respondent No.3, Md. Saahil Rizwi is a relative of

complainant, Md. Irfan Sajid. The other complainants, Md. Moin Raza and Md. Qasim Akhtar are well known to Respondents No.3 and 4 through the complainant, Md. Irfan Sajid since very beginning. It is alleged that in the year 2015, Respondent No.3, Md. Saahil Rizwi has given proposal to the complainants of all the cases to invest in the land situated at Bhusaula, Danapur, P.S.-Phulwarisharif, District-Patna, which is under Madina Tower (office address: Ali Nagar, Colony, Flat No.1 (Ground Floor), House No.A-115, Road No.A-5, Near Raza High School, Anishabad, Patna-800002), in which Respondent No.3, Md. Saahil Rizwi and one Md. Shamsh Hasssan s/o Md. Mumtaz Hassan were partners. As per advice of the Respondent No.3, Md. Saahil Rizwi on 07-04-2015, Md. Shamsh Hasssan, S/o Md. Mumtaz Hassan on one side and complainant, Md. Irfan Sajid and Md. Moin Raza on another side executed first Agreement for Sale regarding purchase of piece and parcel of 1 Katha land situated at Bhusaula, Danapur, P.S.-Phulwari @ Rs.20.00 lacs per Katha, which is subject of complaint case No.467/2019. On same day 07-04-2015, Md. Shamsh Hassan and complainant, Md. Irfan Sajid with his friend Md. Moin Raza executed Agreement for Sale regarding purchase of a piece and parcel of 1 Katha land situated at Bhusaula, Danapur, P.S.-Phulwsarisharif at the

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same rate Rs.20.00 lac per Katha, which is subject of complaint case no.478/2019. Again on the same day 07-04-2015 as per advice of Respondent No.3, Md. Saahil Rizwi said Md. Shamsh Hassan executed two separate Agreements for Sale Deeds. One Agreement for Sale was executed between Md. Shamsh Hassan and Md. Quasim Akhtar, S/o Md. Sanaullah Ansari with respect to another land at Bhusaula, Danapur and other Agreement for Sale was executed between Shamsh Hassan and Afroz Anwar, S/o Abdul Rahman Ansari with respect to 1 Katha land situated at Bhusaula, Danapur. Both the lands were agreed to be sold @ Rs.20.00 lacs per Katha, which is subject of complaint case No.479/2019. As per aforesaid Agreement dated 07-04-2015, the complainant, Irfan Saazid and Md. Moin Raza paid Rs.1.00 lac in cash with respect to purchased land in complaint case No.467. Thereafter on 15-07-2015, 24-07-2015, 26-07-2015, they again paid Rs.14,50,000/- through different ways. On 02-11-2015, they paid Rs.1.00 lac by cash, for which Respondent No.3, Md. Saahil Rizwi and Md. Shamsh Hassan issued receipts in the name and style of "Madina Tower". Thereafter on 27-01-2016 the complainant paid Rs.1.00 lac to Respondent No.3, Md. Saahil Rizwi through A/c Payee cheque no.289727 of ICICI Bank.

5. So far payment of consideration of Agreement for Sale dated 07-04-2015 in complaint case No.478/2019 is concerned

which was executed between Md. Samsah Hassan and Md. Moin Raza with his friend Md. Irfan Sajid, they have paid Rs.1.00 lac in cash and thereafter on 15-07-2015, 24-07-2017 and 26-07-2015 they paid Rs,14,50,000/- through different ways. On 02-11-2015, Md. Irfan Sajid and Md. Moin Raza also paid Rs.1.00 lac by cash, for which Md. Samsah Hassan and Respondent No.3, Md. Saahil Rizwi have issued receipts in the name and style of “Madina Tower”. On 27-01-2016, Md. Irfan Sajid also paid Rs.1.00 lac to Respondent No.3, Md. Saahil Rizwi through A/c Payee cheque no.289727 of ICICI Bank in favour of Respondent No.3, Md. Saahil Rizwi. No.3, Md. Saahil Rizwi.

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6. For payment details with respect to complaint case No.479/2019 is concerned, the complainant no.2, Quasim Akhtar paid total Rs.3.00 lacs out of Rs.10.00 lacs on 07-04-2015, 04-08-2015 and 02-11-2015, for which Md. Shamsh Hassan and Respondent No.3, Md. Saahil Rizwi have issued receipts in the name and style of “Madina Tower”. In like manner, for payment of consideration of Agreement for Sale dated 07-04-2015 between Afroz Anwar and Shamsh Hassan, Md. Afroz Anwar, brother-in-law of the complainant Md. Irfan Sajid and Md. Quasim Akhtar paid Rs.3.00 lacs out of Rs.20.00 lacs on 07-04-2015 and 02-11-2015, for which Md. Shamsh

Hassan and Respondent No.3, Md. Saahil Rizwi issued receipts in the name and style of “Madina Tower”.

7. Further case of the complainants is that after dispute between the partners, the aforesaid “Madina Tower” was dissolved and Respondent No.3, Md. Saahil Rizwi has taken all responsibilities of aforesaid paid amount that he shall return all the paid amount with interest.

8. Further case is that in the year 2017 the Respondents advertised on various platforms regarding their project “Hyde Park Buildcon”, in which Respondents No.3 and 4 are partners and they have given their proposal to all the complainants through prospectus/catalogue as Developers that they have framed a scheme to develop a multi-storied residential building over the piece and parcel of land measuring 66 decimal situated at Mauza-Nosha, P.S.-Phulwarisharif, District-Patna under Thana No.38, Touzi No.5440, Katha No.174, Plot No.333 outside jurisdiction of Phulwarisharif Nagar Parishad comprising of Shops and several residential flats with covered car parking spaces etc. at their own cost in the name and style of “Hyde Park”. The Respondents No.3 and 4 promised to all the complainants that they shall add the previous shared amount of the complainants of aforesaid Agreement for Sale dated 07-04-2015. On 10-07-2017 each complainant and Respondents prepared 3

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separate Agreement of Sale deeds for purchasing one unit residential flat for each complainant with car parking space and undivided share in land, interest right and title in the “Hyde Park Buildcon”, on which due to unavoidable circumstances both the parties signed on 20-01-2018, but as per terms and conditions of aforesaid Agreements, the complainants paid most of the consideration amount up to the year 2017.

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The allotted flat by the Respondents along with total consideration and paid amount by each complainant may be seen through the chart as under:-

Sl. No.	Comp. Case No.	Flat No.	Area (Sq.ft)	Rate per Sq.ft. Rs..	Consideration Amount Rs.	Date/ Year	Mode of Payment	Paid Amount Rs.
1.	RERA/CC/467/2019 RERA/AO/119/2019	403	1079	1,200	12,94,800	2015	Cash/ Account Transfer	9,53,000
						10-07-2017	Account Transfer	3,00,000
2.	RERA/CC/478/2019 RERA/AO/118/2019	406	953	1,700	16,20,100	2015	Cash/ Account Transfer	10,25,000
						28-08-2017	Account Transfer	2,50,000
						31-08-2017	Cash	50,000
						19-09-2017 05-02-2018	Account Transfer	1,00,000 1,00,000
3.	RERA/CC/479/2019 RERA/AO/120/2019	407	953	1700	16,20,100	2015	Cash/ Account Transfer	13,20,000
						05-07-2017	Account Transfer	2,00,000

9. Further case of the complainants is that the Respondents have assured as per terms and conditions dated 10-07-2017 that the building shall be completed and handed over to them till June, 2020 with all amenities. The complainant in complainant case

No.478/2019 has stated that in the meantime, on 13-02-2019 and 03-04-2019 Respondent No.3, Md. Saahil Rizwi refunded Rs.2.00 lacs to the complainant Md. Moin Raza after regular demand by him. In this way, the Respondents are using the amount paid by the complainants and till date they have not started or initiated the work or taken approval from RERA, Bihar and other concerned authorities with respect to the project. So, it has become impossible for the Respondents to hand over the completed flats to the complainants within the prescribed period. It is further alleged that Respondents No.3 and 4 have informed to the complainants that “Hyde Park Buildcon” is under/part of Respondent No.2, M/s Shital Buildtech Pvt. Ltd. The complainants and their representatives approached the Respondents for delivery of possession of their allotted flats or refund the above paid amount with interest, but the Respondents in spite of promise, are not ready to refund the amount taken from the complainants. Hence, the complainants have filed these complaint cases with above reliefs against the Respondents.

10. The Respondent No.1, M/s Hyde Park Buildcon Pvt. Ltd. through its Partner, Respondent No.3, Md. Saahil Rizwi appeared, filed reply and pleaded *inter-alia* that on basis of allegations in the complaint petitions of the complainants, the provisions of RERA Act, 2016 are not attracted against the Respondents. It is further stated that Section-3 of the Act, 2016 is not applicable in the project “Hyde Park”, as neither the same is ongoing nor they have

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advertised the Project in the market for sale/offer for sale and prospectus was also not handed over to any one in any manner. It is further stated that Section-12 of the Act, 2016 is also not applicable against the Respondents, as no false statement has been given to the complainants, which may affect them. Section-17 of the Act, 2016 is also not attracted due to the reasons that neither the Plan has been sanctioned nor the Project is going on the basis of sanctioned plan, as the said material has been suppressed by the complainants and they are simply making allegations against the Respondents on the basis of execution of Agreement for Sale, which is unregistered. Section-18 of the Act, 2016 is also not attracted against the Respondents, as admittedly Respondent No.3, Md. Saahil Rizwi has already refunded Rs.2.00 lacs out of Rs.5.00 lacs received by him from the complainant, Moin Raza as alleged in Case No.RERA/CC/478/2019. The Respondent No.3 also wanted to refund Rs.3.00 lacs, but he stopped payment for the reasons being demand of excess amount by the complainant. However, the Respondent No.3 is still ready to refund remaining principal amount to the complainants.

11. Further case these Respondents is that Md. Saahil Rizwi does not know the complainant Moin Raza, as he never personally met him on any occasion for the claim of the amount from Respondents, but the complainant Md. Irfan Sajid is relative of Respondent No.3, Md. Saahil Rizwi. Further, Md. Irfan Sajid has played a role of

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broker in the contract deals and he has himself made all the deals and contracted on behalf of other complainants and in their absence, he (Md. Irfan Sajid) has paid the advance consideration out of total consideration. It is incorrect that the Respondent No.3 has given any proposal to the complainants to invest money in the above land situated in Mauza-Bhusaula, Danapur. In this regard, Mr. Rizwi Mahtab relative of Md. Irfan Sajid has given proposal to Md. Irfan Sajid for sale of aforesaid land and thereafter Md. Irfan Sajid has given the proposal to the other complainants for purchase of aforesaid land. "Madina Tower" was the project of M/s Madina Investor Clinic, which was governed by Md. Shamsh Hassan in proprietorship capacity, in which Respondent No.3, Md. Saahil Rizwi was not a partner, which is evident from the Agreement for Sale dated 07-04-2015 of land of Bhusaula, Danapur and an additional Agreement executed between Md. Shamsh Hassan and Md. Irfan Sajid, which has been suppressed by Md. Irfan Sajid and so far as signature of Md. Saahil Rizwi is concerned, he has signed only on money receipts for witnessing the transaction between Md. Shamsh Hassan and Md. Moin Raza along with Irfan Sajid, Md. Quasim Akhtar and Md. Afroz Anwar. Therefore, on this score the claim of the complainants is not maintainable and fit to be rejected. It is relevant to mention further that on perusal of the Agreement for Sale dated 07-04-2015 as contained in Annexure-1, the land in question is the ancestral property of Md. Shamsh Hassan, which is

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also mentioned in recital of the Agreement for Sale of land and as such on basis of absolute owner of the property, Md. Shamsh Hassan, in his personal capacity, had executed Agreement for Sale in favour of the complainants, whereas neither it show that it was executed in Partnership of the Madina Tower by Md. Saahil Rizwi nor mentioned the Partners name as Md. Saahil Rizwi in the Agreement for Sale dated 07-04-2015. Therefore, the complainants cannot prove that the land has been purchased under the Partnership firm by Respondent No.3, Md. Saahil Rizwi. It is wrong to allege that Respondent No.3, Md. Saahil Rizwi has given any suggestion to purchase the land and as per his advice the complainants have entered into an Agreement for Sale on 07-04-2015 regarding the purchase of piece of land @ 20.00 lacs per Katha as per terms and conditions of the Agreement for Sale of the land with Md. Shamsh Hassan. The complainants could not comply the terms and conditions of the Agreement for Sale dated 07-04-2015 within the stipulated period and they failed to pay agreed consideration money to Md. Shamsh Hassan and that is why the registration has not been done in favour of the complainants by Md. Shamsh Hassan. The complainants may be asked to produce statement of account for the stated paid amount Rs.16,50,000/- each in complaint case no.467/2019 and 478/2019 respectively and Rs.3.00 lacs each of Md. Afroz Anwar, Md. Quasim Akhtar. It is further stated that Md. Irfan Sajid paid Rs.1.00 lac on 27-01-2016

to Respondent No.3 through A/c Payee cheque bearing no.289727 of ICICI Bank, but in fact, Md. Irfan Sajid had earlier borrowed loan in cash from Respondent No.3 for his personal use, but he did not return the amount. After repeated demand, he paid aforesaid Rs.1.00 lac to the Respondent No.3 on 27-01-2016. As such, for payment of alleged amount Rs.1.00 lac, receipt has not been produced by him before the Court and he has intentionally alleged payment with respect to the payment against the Agreement for Sale of the land.

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12. Further case is that in contents of Agreement for Sale there is no mentioning that Respondent No.3 will refund the total amount and he will take responsibilities himself. Therefore, Respondent No.3 is not responsible to pay the alleged previous amounts mentioned in attached list/payment schedule of Agreement for Sale dated 10-07-2017/20-01-2018 to the complainants.
13. Further Respondent No.3 through its partners agreed to develop a residential building namely “Hyde Park Buildcon” over the piece of land owned by four land owners by way of Agreement for Sale. Later on, they came to know that the land was disputed with the other adjacent land owners, over which the Apartment was going to be constructed. Thereafter, a meeting was held by the Partners of M/s Hyde Park Buildcon and they decided to stop the project and refund the amount of the consumers. Thereafter, the Respondent

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No.3 decided not to advertise, market, sell etc. to the persons to purchase in any manner the flats of said project. The land owners have suppressed the material fact and during such period they were not aware of the dispute of the land in question, over which the Agreement for Sale to develop the Apartment has been executed between these complainants and Respondent No.3. It is fact that the Respondent No.3 wanted to refund the advanced amount to the complainants and in this view of the matter, Rs.2.00 lacs was refunded to complainant, Md. Moin Raza out of Rs.5.00 lacs. But he stopped the payment due to the fact that the complainants started demanding additional previous amounts from respondent No.3. The Respondent No.3, Md. Saahil Rizwi and Respondent No.4, Md. Yasir Immam have never promised to the complainants to add/adjust the previous amount, which has been paid to Md. Shamsh Hassan for purchasing the land at Bhusaula, Danapur, since the aforesaid private land is of Md. Shamsh Hassan, who had executed the Agreement for Sale dated 07-04-2015 in his personal capacity, as the amounts had been received by him. Agreement for Sale dated 10-07-2017/20-01-2018 is self-contrary, as nothing has been mentioned in the entire contents of Agreement that amount Rs.10,25,000/- of Complaint Case No.478/2019, Rs.9,53,000/- of Complaint Case No.467/2019 and Rs.13,20,000/- of Complaint Case No.479/2019 of previous amount will be added in consideration amount of the flat and on this score statement of

complainants are incorrect and illegal and had been stated only with malafide intention.

14. Further case of the Respondent No.1 and 3 is that on one hand the complainant of complaint case No.478/2019 have stated in Para-5 that previous amount Rs.17,50,000/- was paid by the complainant, Md. Moin Raza and Md. Irfan Sajid jointly, but on the other hand in para-9 of the complaint petition, they have stated that amount of Rs.10,25,000/- out of Rs.17,50,000/- has been paid as previous shared amount of complainant, Md. Moin Raza. On the same point, the complainant in Complainant Case No.479/2019 have stated in Para-5 of the complaint petition that the complainant, Md. Quasim Akhtar paid total previous amount of Rs.3.00 lacs and in para-7 of the Complaint Petition it is stated that Md. Afroz Anwar paid total previous amount of Rs.3.00 lacs, whereas in para-12 of the Complaint Petition it is stated that Rs.13,20,000/- has been paid as previous shared amount of Md. Quasim Akhtar and Md. Afroz Anwar, but when both the previous amounts, which were paid by Md. Quasim Akhtar and Md. Afroz Anwar will be added, then the total amount will come Rs.3.00 lacs + Rs.3.00 lacs = Rs.6.00 lacs, instead of Rs.13,20,000/-. In like manner, the complainant in Complaint Petition No.467/2019 in para-4 has stated that the complainant and Md. Moin Raza jointly paid the previous amount of Rs.17,50,000/-, but on the other hand in para-8 of the Complaint Petition it is stated that the amount of Rs.9,53,000/- out of

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Rs.17,50,000/- has been paid as previous shared amount of Md. Irfan Sajid, but if both the previous shared amounts, which have been paid by Md. Moin Raza and Md. Irfan Sajid is added , then the total figure of amount will come Rs.10,25,000+Rs,9,53,000 =Rs.19,78,000/- instead of Rs.17,50,000/-. So these are contrary to the accounts.

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15. Further case is that Md. Irfan Sajid requested to the Respondent No.3, Md. Saahil Rizwi in good faith to execute Agreement for Sale of flat in “Hyde Park” for an area of 1079 sq.ft. @ RS.1,200/- per sq.ft. in Complaint Case No.467/2019 and further 953 sq.ft. @Rs.1,700/- per sq.ft. in complaint case No.478/2019 and 953 sq.ft. @ Rs.1,700/- in complaint case No. 479/2019 in favour of complainants, in which Md. Irfan Sajid wished to charge brokerage fee from the other complainants @ Rs.500/- per sq.ft. and these arrangements were just mentioned in the Agreement for Sale to show their customers, the price of the flat @ Rs.1,700/- per sq.ft. in place of Rs.1,200/- per sq.ft. The complainant, Irfan Sajid with respect to Complaint Case No.467/2019 requested to the Respondent No.3 that price of the flat @ 1,200/- per sq.ft. for an area of 1079 sq.ft. will be Rs.12,94.800/-, but in good faith the amount of Rs.9,53,000/- is mentioned in the Agreement for Sale and assured that this amount will be paid to the Respondent No.3 and thereafter money receipts will be issued for all payments in favour of the complainant, but Md. Irfan Sajid, after execution of

Agreement for Sale, neither paid the amount Rs.9,53,000/- nor money receipt issued to the complainant by the Respondent No.3. In fact, the complainant paid only amount of Rs.3.00 lacs out of consideration Rs.12,94,800/- to the Respondent No.3. Therefore, claim of Rs.9,53,000/- is incorrect and illegal. In like manner, in Complaint Case No.479/2019 the actual price @ Rs.1,200/- per sq.ft. was to be mentioned in Agreement for Sale, but just for showing their customer, complainant no.2, Md. Quasim Akhtar, the price of flat was mentioned as Rs.1,700/- per sq.ft. in place of Rs.1,200/- per sq.ft. Now, for the complainants the total amount of Rs.16,20,100 for area of 953 sq.ft. @ Rs.1.700/- per sq.ft. or Rs.11,43,600/- @ Rs.1,200/- per sq.ft., is to be paid by the complainants to the Respondent No.3, but Irfan Sajid further requested to Respondent No.3 to mention Rs.13,20,000/- in the Agreement for Sale to show this Agreement for Sale for satisfaction of customer, Md. Quasim Akhtar and he assured that the amount has been received and he will pay the same to the Respondent No.3 and thereafter money receipt will be issued for all payments in favour of the complainants, but Irfan Sajid after execution of Agreement for Sale, neither paid the amount Rs.13,20,000/- nor money receipts were issued in favour of the complainants by the Respondent No.3. In fact, the complainants have paid only an amount of Rs.2.00 lacs out of Rs.16,20,100/- as well as Rs.11,43,600 to the Respondent No.3. Therefore, the claim of

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Rs.13,20,000/- is incorrect and illegal. In like manner, in Complaint Case No.478/2019 the claim of Rs.10,25,000/- by the complainant is incorrect and illegal.

16. Further case of the Respondents is that it will be clear from the recital of Agreement for Sale dated 10-07-2017/20-01-2018 that the Respondents have stated that they will jointly develop and construct a multi-storied residential building in the name of "Hyde Park" comprising several spaces at ground floor of the land and after submission of Map in Panchayat Raj, Nausa, Phulwarisharif and other authorities and going through the Map, the complainants have become ready to execute the Agreement for Sale, but till then the Map was not approved and after coming to know that the concerned land was disputed with some other adjacent land owners, over which the apartment was going to be constructed, the Project was thought to be cancelled. Therefore, a meeting was held by M/s Hyde Park Buildcon and it was decided to cancel the project and return the received amount to the customers. Whereas, as per complaint case No.478/2019, the amount paid by the complainant to the Respondent No.3, Rs.5.00 lacs was to be refunded and out of which Rs.2.00 lacs was returned through I.M.P.S. on 13-02-2019 and 03-04-2019, which has also been admitted by the complainant in Annexure-6 filed along with complaint petition and the Respondent No.3 is ready to refund the remaining Rs.3.00 lacs, but since the project has been stopped due to litigation, and the complainant

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demanded additional amount of Rs.10,25,000/- showing paid by the complainant to the Respondent No.3, which has not been paid to him, hence the Respondent No.3 stopped payment. The complainant in complaint case No.479/2019 also demanded Rs.13,20,000/- from the Respondents, which he has not paid. However, the Respondent No.3 wanted to refund Rs.2.00 lacs, but since the project has been stopped and the complainant demanded more amount showing previous shared amount Rs.13,20,000/-, hence, the said Rs.2.00 lacs also could not be refunded. The Respondent No.3 is still ready to refund Rs.2.00 lacs to complainants. In like manner, in Case No.467/2019, the Respondent No.3 wanted to return Rs.3.00 lacs, which the complainant has paid to him, but Md. Irfan Sajid demanded amount of Rs.9,53,000/-, which has not been paid to Respondent No.3, hence, refund was stopped, but he is still ready to refund amount of Rs.3.00 lacs to the complainant. Further case of the Respondent No.1 & 3 is that there are several disputed questions on facts between both the parties involved, which may be decided only in the Civil Court, as this Court has special power only with respect to adjudicating the cases falling under the provisions of RERA Act, 2016. As such, these complaint cases filed u/s 31 read with section 71 of the Act, 2016 being not maintainable, may be dismissed.

17. Respondent no.2 has filed separate reply pleading *inter-alia* that Respondent no.2 has no concern with the project “Hyde Park”,

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as the same is concerned with Partnership firm, “Hyde Park Buildcon” /Madina Tower. It is further case of this Respondent is that these complainant cases are fit to be rejected on the ground of non-joinder/mis-joinder of parties as Madina Tower and Md. Shamsh Hassan, who were the appropriate parties, have not been made parties to the present complaint cases. The Respondent No.2 is a separate and independent body/juristic person and as such, it cannot be unnecessarily dragged into litigation for any claims whatsoever attributable, to which it has no role to play. It is also not clear from the complaint petitions as to in what manner the Respondent No.2 is liable to the claims raised by the complainants, as neither there is any direct averment nor statement, which requires answer from Respondent No.2. It is further case that it is clear from contents of complaint petitions of complainants that Respondent No.3 and Shamsh Hassan in their personal capacities may be held answerable and accountable for execution of project handled by “Madina Tower”, wherein the complainants have invested their money. The complainants have preferred litigation without making party to Md. Shamsh Hassan, who entered into Agreement with complainants regarding his ancestral land. Md. Shamsh Hassan was Partner to Madina Tower and has received fund from the complainants. It is also important that “Madina Tower” has also not been made party, which is essential party in present complaint cases, but on other hand, Respondent No.2,

which is not essential party, has been wrongly roped in frivolous litigation. In fact, in the catalogue/receipts annexed nowhere, bear the name of Respondent No.2. In this way, Notice was wrongly issued to Respondent No.2, hence, these complaint cases have to be dismissed.

18. Respondent No.4, Md. Yasir Immam has filed separate reply pleading that he has no concern with Partnership Firm, Madina Tower and the alleged project “Hyde Park”, Partnership Firm, “Madina Tower” is responsible and accountable for the said project and it is sole juristic person liable for the reliefs claimed in the Complaint Cases. The present Complaint cases are fit to be rejected on the ground of non-jointer/mis-jointer of the parties, as “Madina Tower” and Md. Shamsh Hassan, who are appropriate parties, have not been made parties in all the cases. Thus, Respondent No.4 has no role to play in the dealings between the complainants and the firm “Madina Tower” and he has been unnecessarily dragged into litigation. There is no direct averment or statement which requires answer from the Respondent No.4, rather, in most illegal manner and with a view to implicate him, he has been made party to these frivolous cases. The complainants thought to invest under a Project managed and controlled by the firm namely “Madina Tower”, to which Md. Shamsh Hassan and Respondent No.3, Saahil Rizwi were Partners. Despite agreement dated 07-04-2015 being made Annexure, the complainants for reasons best known to them have

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not made Md. Shamsh Hassan party to the present cases. The complainants have not brought on the record as to how and on what basis the statement regarding dissolution of Madina Tower and adoption of responsibility and liabilities of Madina Tower has been adopted by Respondent No.3. However, Respondent No.3 and 4 have never promised to the complainants to add the previous amounts, which they alleged to have deposited with other firm absolutely unconnected with Respondent No.4. The Respondent No.4 was never party to Agreement for Sale dated 10-07-2017/20-01-2018. The contents of the Agreement dated 10-07-2017/20-01-2018 are disputed. The firm, M/s Hyde Park Buildcon has decided to file a Case/Title Suit before appropriate Civil Court for cancellation of Agreement dated 10-07-2017/20-01-2018, in which the complainants have fraudulently inserted the amount as received in 2015, when the Partnership Firm itself was not in existence. It is further case that the project "Hyde Park" has been dropped owing to Title Suit/Litigation on the concerned land and the firm is returning the amount received from the customers/buyers. The amount of these complainants shall also be refunded whatever has been deposited by them, after initiation of the project and after the firm being constituted. But, they have wrongly mentioned outstanding amount deposited by them in 2015, as the firm has not received any such amount. It is further stated that M/s Shital Buildtech has no concern with M/s Hyde Park Buildcon, as both are separate juristic

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persons. The complainants have filed the present cases only to mis-lead the Court, as instead of filing complaint cases in this Court, they should have filed Money Suit before the Civil Court for adjudication of disputed money claim. Hence, the present complaint cases are liable to be dismissed.

19. Now on basis of pleadings of both the sides, I have to see as to whether this Court has jurisdiction to enquire, adjudicate and grant reliefs as prayed under the provisions of Section 12, 4, 18, 19 of Act, 2016 to the complainants in all 3 complaint cases against the Respondents?

#### Findings

For arriving at right conclusions, the disputed facts of pleadings with reasonings may be discussed in following manner:-

20. Firstly, admittedly, 3 Agreements for Sale dated 10-07-2017/20-01-2018 were executed between Respondent No.1, M/s Hyde Park Buildcon through its one Partner, Respondent No.3, Md. Saahil Rizwi and complainants for sale/purchase of flats in project "Hyde Park". It is pertinent to note that all these Agreements for Sale dated 10-07-2017/20-01-2018 attached with the complaint petitions are unregistered and are scribed on non-judicial Stamp of Rs.1,000/-. It is also clear that these Stamp Papers were purchased on 17-06-2017 in the name of "Hyde Park Buildcon", 401, Fazal Imam Complex, Dak Bungalow Road, Patna and these deeds were scribed on 10-07-2017, but both the parties have signed on



20-01-2018. The complainants have stated that due to unavoidable circumstances these deeds were signed on 20-01-2018, but what were the unavoidable circumstances in these Agreements have not been explained. The Respondents have challenged the contents of these Deeds, which requires enquiry, which is not possible in this Court.

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21. Secondly, the complainants have stated that as per terms, the previous shared amount was scribed in all these Agreements for Sale Deeds for purchase/sale of the flats. As already discussed that in Complainant Case No.478/2019 previous shared amount, cash and deposit in account has been shown as Rs.10,25,000/-. In Complaint Case No.479/2019, previous shared amount is shown as Rs.13,20,000/- and in Complaint Case No.467/2019 previous shared amount has been shown as Rs.9,53,000/-. The Respondent No.1, through Respondent No.3 and Respondent No.4 submitted that they have never promised to the complainants for adding the previous shared amounts, which has been paid to Md. Shamsh Hassan pertaining to his ancestral land at Bhusaula, Danapur, who has executed Agreement for Sale dated 07-04-2015 in his personal capacity and the amount has been received by him. It is further stated that Respondent No.3 has signed in good faith on Agreement for Sale dated 10-07-2018/20-01-2018 on assurance of complainant Md. Irfan Sajid that he (Irfan Sajid) will take brokerage of Rs.500/- per sq.ft. from the other co-purchasers and that is why only for

showing the amount, it was written/scribed in Agreement on higher side @ Rs.1,700/- per sq.ft. in addition to Rs.500/- per sq.ft. of the respective area of the flat 953 sq.ft. or 1079 sq.ft. It is further case that Md. Irfan Sajid has assured him that he shall show the Agreement for Sale to the other buyers and on receipt of the payments, he will pay the same to the Respondent No.3 and thereafter money receipts will be issued for all payments in favour of the complainants, but neither the complainants paid the amount nor money receipts were issued to the complainants by Respondent No.3. In such view of the matter, all the 3 Agreements for Sale Deeds dated 10-07-2017/20-01-2018 requires enquiry as to whether the view taken by the complainants are correct or the defence taken by the Respondents No.1, 3 and 4 with respect to manner and mode of payment of consideration in execution of Deeds, is correct and such type of enquiry is not possible in the limited jurisdiction of this Court.

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22. Thirdly, the complainants of Complaint Case No.478/2019, 479/2019 and 467/2019 have stated that on advice of Respondent No.3, Md. Saahil Razwi, they entered into Agreement for Sale regarding purchase of a piece and parcel land of 1 Katha in Complaint Case No.478/2019, 10 Dhurand 1 Katha in Complaint Case No.479/2019 and 1 Katha in Complaint Case No.467/2019 @ Rs.20.00 lac per Katha situated at Bhushaula, Danapur, P.S.- Phulwarisharif. In complaint case No.467/2019 on agreement Md.

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Moin Raza and Md. Irfan Sajid paid Rs.1.00 lac by cash and after that on 15-07-2015, 24-07-2015 and 26-07-2015, they have paid Rs.14,50,000/- through different ways. Thereafter, on 02-11-2015 they paid Rs.1.00 lac by cash and for that Md. Shamsh Hassan and Md. Saahil Rizwi issued receipts in the name and style of “Madina Tower”. Then on 27-01-2016, Md. Irfan Sajid paid Rs.1.00 lac to Respondent No.3 through A/c Payee cheque. In like manner, in Complaint Case No.479/2019 Md. Quasim Akhtar paid Rs.3.00 lacs out of Rs.10.00 lacs on 07-04-2015, 04-08-2015 and 02-11-2015, for which Md. Sahamsh Hassan and Respondent No.3, Md. Saahil Rizwi issued receipts in the name and style of “Madina Tower”. Later on as per advice of Respondent No.3, Md. Afroz Anwar (brother-in-law of applicant) and Md. Shamsh Hassan also executed Agreement for Sale on 07-04-2015 for 1 Katha land of Bhusaula, Danapur @ Rs.20.00 lacs per Katha and thereafter Md. Afroz Anwar paid Rs.3.00 lacs out of Rs.20.00 lacs on 07-04-2015 and 02-11-2015, for which Md. Shamsh Hassan and Respondent No.3, Saahil Rizwi issued receipts in the name and style of “Madina Tower”. Likewise, in Complaint Case No.478/2019, as per advice of Respondent No.3, Saahil Rizwi, the complainants, Moin Raza and Irfan Sajid entered into Agreement for Sale dated 07-04-2015 with Shamsh Hassan for 1 Katha land situated at Bhusaula , Danapur and the complainant Md. Irfan Sajid and his friend Md. Moin Raza have paid Rs.1.00 lac by cash. Thereafter on 15-07-2015, 24-07-

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2015 and 26-07-2015, they have also paid Rs.14,50,000/- through different ways. Thereafter, on 02-11-2015 they paid Rs.1.00 lac cash, for which Ms. Shamsh Hassan and Md. Saahil Rizwi have issued receipts in the name and style of “Madina Tower”. Md. Irfan Sajid paid Rs.1.00 lac to Respondent No.3 by A/c Payee cheque on 27-01-2016. The complainants have further stated that due to dispute between the Partners the aforesaid “Madina Tower” was dissolved and Respondent No.3, Saahil Rizwi took the responsibilities of all the aforesaid paid amount that he shall return all the paid amount with interest. Respondents No.1 and 3 have declined these pleadings of the complainants and they have stated that such type of adding of previous shared amount was never promised by them. After filing of complaint cases, the complainants have filed Annexure-E dated 27-01-2016, wherein as per the complainants, Respondent No.3, Md. Saahil Rizwi with his signature has taken responsibility to return the amount of Rs.23,50,000/- with interest @ 1.25% per month from 07-04-2015 to Md. Irfan Sajid. Md. Afroz Anwar, Md. Quasim Akhtar and Md. Moin Raza in respect of payment for land situated at Bhusaula, Danapur, Patna of Md. Shamsh Hassan and Respondent No.3. Md. Saahil Rizwi under Madina Tower. Respondent No.3 has challenged the genuineness of this document (Annexure-E) and has submitted that he has never executed the said paper and has not taken responsibility to refund the amount and this paper is forged and

fabricated document and created after thought, as the same was not produced along with Complaint Petition and he has never signed on that paper, which may be enquired from competent authority, whereon the learned lawyer for the complainants has submitted that Respondent No.3, Md. Saahil Rizwi has executed Annexure-E whereon Md. Shamsh Hassan and Rizwi Mahtab are witnesses.

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I think, when the genuineness of Annexure-E is challenged by the Respondent No.3, Md. Saahil Rizwi, the original document (Annexure-E) has to be produced and it should be verified and scrutinised. But, such power is not vested in the present Court. The scrutiny of the document (Annexure-E) is only possible in competent Civil Court.

23. Fourthly, admittedly Md. Shamsh Hassan, who is said to have executed Agreement for Sale on 07-04-2015 with Md. Quasim Akhtar, Md. Moin Raza, Md. Irfan Sajid and Afroz Anwar has not been made party in these Complaint Cases of the complainants and they have simply stated that due to dispute between Partners, firm “Madina Tower” was dissolved. Respondent No.3, Md. Saahil Rizwi has taken responsibility of paid amount that the same shall be returned with interest to all the complainants and that is why Shamsh Hassan has not been made party to the Complaint cases, but on going through the Agreement for Sale dated 07-04-2015, it appears that Md. Shamsh Hassan has executed Agreement for Sale for his ancestral land situated at Bhusaula, Danapur and he has

nowhere mentioned in the contents that he was executing the Deed on behalf of “Madina Tower” firm, wherein Md. Saahil Rizwi is also a Partner. It is also pertinent to note that the complainants had not explained as to why, when and how Md. Shamsh Hassan has put/shifted his personal land detailed in Agreement for Sale dated 07-04-2015 in the company “Madina Tower”. The complainants have also failed to file any documentary evidence as to when the company, “Madina Tower” came into existence, who were the Partners, what type of properties and how much money was available in the account of “Madina Tower” at the time of execution of Agreement for Sale dated 07-04-2015 and when it was dissolved. These questions requires to be looked into, but such enquiry is not possible in present Court.

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24. Fifthly, the complainants have filed Annexure-C wherein M/s Madina Infratech Pvt. Ltd. has been shown as registered/begin on 31-08-2015. Hence, when this company, Madina Infratech Pvt. Ltd. has come into existence on 31-08-2015, then how the Respondent No.3, Md. Saahil Rizwi and Md. Shamsh Hassan have come in joint liability for Madina Tower on 07-04-2015 when it was not in existence, has not been explained. The Respondents have submitted that “Madina Tower” company has also not been made party in these complaint cases, wherein the learned lawyer for complainants submitted that since it was dissolved, so it was not made party. I think, it is a matter of enquiry Whether “Madina Tower” and

“Madina Investor Clinic” were one and same firm and whether the Respondent No.3 Saahil Rizwi was also Partner in “Madina Tower/Madina Investor Clinic”. But, such enquiry is once again not possible in the present Court. It is also not out of place to mention that the complainants have failed to produce any Deed of Agreement dated 07-04-2015 executed between “Madina Investor Clinic” through its Managing Director, Md. Shamsh Hassan, s/o Md. Muntaz Hassan and Respondent No.3, Saahil Rizwi in favour of complainant, Md. Irfan Sajid with respect to land situated at Bhusaula, Danapur, wherein he (Md. Shamsh Hassan) has agreed with Md. Irfan Sajid to pay brokerage on sale of land to customers. But, the Respondents have filed photocopy of such Deed of Agreement for Sale dated 07-04-2015 (Ext-A) executed between Shamsh Hassan and Irfan Sajid with respect to payment of brokerage to Md. Irfan Sajid on sale of land to other purchasers. Now, in light of Ex-A, it has to be scrutinised whether Md. Shamsh Hassan and Md. Irfan Sajid were dealing for sale of land of Md. Shamsh Hassan on some brokerage on sale to other purchasers and difference amount was to be paid to Md. Irfan Sajid as alleged by the Respondents. But, such scrutiny/enquiry is also beyond the jurisdiction of the present Court.

25. Sixthly, the complainants have alleged in all these cases that Rs.14,50,000/-, Rs.13,20,000/- and Rs.9,53,000/- of previous shared amount have been added in Agreement for Sale dated

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10-07-2017/20-01-2018 on promise of Respondent No.3, Md. Saahil Rizwi to adjust in the consideration of the flat in the project “Hyde Park Buildcon” along with remaining consideration and they have also filed photocopies of receipts, wherein receipt no.15 dated 15-07-2015, 24-07-2015 and 26-07-2015 have been annexed, whereon there is signature of Md. Shamsh Hassan along with Respondent No3, Md. Saahil Rizwi. On this issue Respondent No.3, Md.Saahil Rizwi submitted that he has signed on the receipts as witness for receipt of amount by Md. Shamsh Hassan and not as a recipient of the amount. Further, complainants have submitted that on enquiry they came to know from website of Ministry of Company Affairs, Government of India that “Madina Tower” or “Madina Investor Clinic” was not existing and in reality “Madina Infratech Private Ltd.” Was existing, which was running by Directors, Md. Saahil Rizwi and Md. Yasir Immam and Shamsh Hassan and later on Md. Shamsh Hassan has resigned on 31-01-2017, which find support from Annexures-C and D. I think, when Madina Tower was not in existence, why the receipts were issued in the name of the firm Madina Tower with signature of Md. Shamsh Hassan and Md. Saahil Rizwi and why “Madina Investor Clinic” has also been printed in the receipts form along with “Madina Tower” and why Shamsh Hassan has resigned from Director of “Madina Tower Clinic” and not from “Madina Tower and why such a huge amount has been paid in cash by the complainants to Md. Shamsh Hassan



and Respondent No.3, Md. Saahil Rizwi in utter violation of Section 269 SS of Income Tax Act and why firm “Madina Tower” was not registered with Government has to be enquired. However, one thing has to be added that Respondents have filed Annexure-A, an Agreement dated 07-04-2015 executed between Md. Shamsh Hassan and Irfan Sajid with respect to brokerage of sale of land of Shamsh Hassan, who has signed as Managing Director of “Madina Investor Clinic”. Here the point arises on one side, the complainants have denied the existence of “Madina Investor Clinic” and on other side, Md. Shamsh Hassan has executed Deed on behalf of “Madina Investor Clinic”, so why he has not been made party is pertinent question and requires detailed enquiry. All these questions require scrutiny/enquiry during the full-fledged trial by a competent Court, which is not possible in the present Court.

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26. Seventhly, it is also very important to mention that the complainants have stated that the Respondent No.3, Md. Saahil Rizwi has taken responsibility to refund Rs.23,50,000/- with interest of Md. Shamsh Hassan, which was taken on 07-04-2015 with respect to the land. Now, if all these amounts of the complaint cases Rs.13,20,000/- Rs.9,53,000/- and Rs.10,25,000/- are added, then total amount will be Rs.32,98,000/- and if Rs.23,50,000/- is deducted there will be difference of Rs.9,48,000/-. Both the parties have explained the difference in their own way, whereas the Respondents have submitted that the claim of previous shared

amount is forged and fabricated, but the complainants have stated that the payment was made by complainants through Irfan Sajid to Md. Saahil Rizwi for the remaining amount Rs.9.48,000/- between 28-01-2016 to June, 2017 sometimes in cash Rs.50,000/- and sometimes in cash Rs.1,00,000/- and the same has been entered in Agreement for Sale dated 10-07-2017/20-01-2018 by Md. Saahil Rizwi, which is being denied by him.. The claim of difference has to be scrutinised by the full-fledged trial, which is not possible in the present Court.

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27. Eighthly, the complainants have stated that they have paid consideration amount to the Respondents along with previous shared amount paid to Md. Shamsh Hassan and Md. Saahil Rizwi and responsibility was taken by the Respondent No.3, Md. Saahil Rizwi to re-pay the same. The Respondents No.1 and 3 have admitted that as per Agreement for Sale dated 10-07-2017/20-01-2018, they have taken advance booking amount Rs.10.00 lacs from the complainants against all the three Agreements for Sale, in which Respondent No.3 has refunded Rs.2.00 lacs out of Rs.10.00 lacs and he is ready to refund the outstanding amount of Rs.8.00 lacs to the complainants. Now, the complainants have submitted that the Respondents have neither got registration from RERA, Bihar of the “Hyde Park” project nor refunded their amount, whereon the Respondent No.1 through Respondent No.3 has submitted that while they submitted the Map for approval before the

Panchayat Raj, Nausa, Phulwarishariff, they came to know that the land, which they have taken for the project was disputed with some adjacent land owners and thereafter a meeting of Directors was held and it was decided to stop the project and return the received amount to the customers. They have also filed Minutes of the meeting of M/s “Hyde Park Buildcon” and their decision to stop the project “Hyde Park” (Annexure-4 & 4-A). Now, the question arises when the project is not in existence, whether there is necessity to get registration from RERA, Bihar? I think, if during the few months of the knowledge of dispute regarding land, the project is cancelled and now it is not existing, there may/may not need for RERA registration, which has to be decided by Bihar RERA and this Court cannot/should not comment. However, there being dispute between both the parties on amount of consideration detailed in Agreement for Sale dated 10-07-2017/20-01-2018 paid by the complainants to the Respondents may be adjudicated by appropriate Court, but the same is not possible to be adjudicated in the present Court, due to amalgamation of previous shared consideration amount with the present consideration amount mentioned in the above Agreement for Sale.

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28. Ninethly, this Court is not able to adjudicate on Agreement for Sale dated 07-04-2015, which is for sale of the ancestral land of Md. Shamsh Hassan, who is not party to the complaint cases. It is further to be added that since 3 Agreements for Sale Deeds dated

07-04-2015 between complainants and Md. Shamsh Hassan and complainants and Respondent No.3 dated 10-07-2017/20-01-2018 have become matter of dispute between the parties, so this Court cannot/should not entertain them for granting relief to the complainants, as these disputes oust the jurisdiction of this Court and also such type of disputes does not bar the jurisdiction of Civil Court u/s 79 of the Act, 2016.

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29. Tenthly, the complainants have submitted in their complaint cases that as per information given by the Respondents No.3 and 4 M/s Hyde Park Buildcon” is under/part of Respondent No.2, M/s Shital Buildtech Pvt. Ltd. The complainants have filed Annexure-C wherein M/s Shital Buildtech Pvt. Ltd. is shown another firm registered on 26-05-2016, in which Md. Saahil Rizwi and Md. Yasir Immam are Directors. But, there is no proof brought by the complainants that M/s Madina Infratech Pvt. Ltd. and M/s Shital Buildtech Pvt. Ltd. are one and same firm and unless and until any document is brought on record by the complainants, their claim for making Respondent No.2 liable at this stage, requires specific enquiry/trial, which is not possible in the present Court.

30. Eleventhly, the complainants have also stated that Irfan Sajid sent money to the Respondent No.3, Saahil Rizwi in his firm Arrow Infrastructure Pvt. Ltd. and has also filed photocopy of Annexure-A series, whereon the Respondents no.1 and 3 have stated that Md. Irfan Sajid is relative of Respondent No.3, Md. Saahil Rizwi and Md.

Irfan Sajid on call told him that he was in Delhi and he was sending money and the same has to be paid to Shamsh Hassan, as such huge amount cannot be brought by him from Delhi to Patna and he has paid the said amount to Shamsh Hassan. Later on Shamsh Hassan in presence of complainants issued receipt, whereon he has signed as witness. Now what aspect/which version is correct has to be enquired, but such enquiry is not possible in present Court.

31. From the above discussion of facts it is clear that all the complainants have mentioned the previous shared consideration amounts in their Agreement for Sale dated 10-07-2017/20-01-2018, which they have paid to Md. Shamsh Hassan and Saahil Rizwi during execution of Agreement for Sale dated 07-04-2015 for purchase of ancestral land of Md. Shamsh Hassan. Now, it is not possible in the present Court to make enquiry/trial whether the said consideration was actually paid to Md. Shamsh Hassan and Md. Saahil Rizwi or not, as Md. Shamsh Hassan is not a party in the present case. It is also very material to enquire as to whether one firm. M/s Shital Buildtech Pvt. Ltd. may be responsible for the activities of other firm M/s Hyde Park Buildtech Pvt. Ltd? Whether M/s Shital Buildtech is part of M/s Hyde Park Buildcon or not? Why this Agreement for Sale dated 07-04-2015 between Md. Shamsh Hassan and complainants with respect to sale of his ancestral land was not registered and what will be effect of non-registration of the Deed? It is also to be scrutinised as to what will

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be the effect of non-making party of Md. Shamsh Hassan, M/s Madina Tower, M/s Madina Investor Clinic in the complaint cases filed by the complainants? It is also to be seen whether M/s Madina Tower, M/s Madina Investor Clinic are one and same firm in Partnership of Md. Sahamsh Hassan and Respondent No.3, Md. Saahil Rizwi? Whether any other person was also Partner in Madina Tower or not? Why without registration, the firm Madina Tower was functioning with public? It is also to be enquired as to whether Respondent No.3 has signed on money receipts (Annexure-3 series) as a witness or as a Partner of firm along with Md. Shamsh Hassan? It is also to be enquired as to why and under what capacity Md. Shamsh Hassan has thrown his ancestral property in M/s Madina Tower firm? It is also to be enquired, as to why and when “Madina Tower was dissolved? Why the present agreement for Sale Deeds dated 10-04-2017/20-08-2018 have not been registered and its consequences on parties under the law? There are other questions regarding execution of Agreement for Sale dated 07-04-2015 between Md. Shamsh Hassan and complainant, Md. Irfan Sajid as a broker, which has been filed by the Respondents on the record and denied by the complainants, requires enquiry. In such view of the matter, these are not simple cases for grant of relief of refund etc to the complainants against the Respondents, rather there are various composite and complicated questions with respect to Agreements for Sale dated 07-04-2015 and 10-07-2017/20-01-

2018 for its registration, consideration amount, genuineness etc., which may be enquired /tried by a competent Court and that is not possible to be enquired in the present Court, which has limited jurisdiction only with respect to enquiry of the cases relating to only Sections 12, 14, 18 and 19 of the Act, 2016. I further think, Section 79 of the Act, 2016 does not bar the jurisdiction of Civil Court for entertaining such type of complaint cases, as this Court cannot determine/adjudicate these disputed points arose between the parties. Hence, I think, if advised, the complainants may file Civil Suits before the appropriate Civil Court under applicable provisions for redressal of their grievances, as in present context, this Court has no jurisdiction to enquire/adjudicate these complaint cases of the complainants and grant reliefs to them.

Therefore, in view of the above observations, these complaint cases no.467/2019, 478/2019 and 479/2019 are disposed of.

Sd/-  
(Ved Prakash)  
Adjudicating Officer  
RERA, Bihar, Patna  
25-09-2020

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