

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

**Before the Bench of**

**Hon'ble Member Mr. S. D. Jha, RERA, Bihar,**

**RERA/CC/113/2023**

**Mr. Kuldeep Kumar & 3 Others ..... Complainant**

**Vs.**

**M/s Sai Ashirwad Construction Pvt. Ltd. .... Respondent**

**Project:– SAI MAHADEV ENCLAVE**

**ORDER**

**16.08.2024** This case was last heard on 01.08.2024 and the order was reserved. The complainant was absent. Mr. Sharad Shekhar, Advocate, appeared and defended the case of the respondent. The complainant was directed vide proceeding dated 01.08.2024 to file rejoinder to the counter reply dated 14.12.2023 within a week but the same has not been filed so far. Hence, this order is being passed today i.e. 16.08.2024 on the basis of material available on the record.

2. The complainant filed this complaint on 27<sup>th</sup> June, 2023 against the project "Sai Mahadev Enclave" under Section 7 of the Real Estate (Regulation & Development) Act, 2016 read with Rule 3(1)(F) of the of the Bihar Real Estate (Regulation & Development) Rules, 2017, for revocation of its Registration no.BREBAP99525-2/74/R-139/2022 dated 17.05.2022 on the ground that the respondent – promote is doing construction of the project illegally by grabbing their land situated at Bhusaula, P.S. – Phulwarisharif, District - Patna despite objections raised by them and the case bearing 1140(M) of 2022 under Section 144 Cr.P.C. pending over the land.

3. Learned counsel for the respondent stated, inter alia, in his counter reply dated 14.12.2023 that this case is not maintainable because the complainant is neither allottee nor promoter. He further submitted that the injunction petition filed on 21.09.2021 under Order 39 Rule -1 & 2 read with Section 151

of the Code of Civil Procedure in the Title Suit no.233 of 2033 before learned Sub Judge – XI, Civil Court, Patna, has been rejected vide order dated 26.09.2023 and 144 Cr. P. C. proceeding pending before the S.D.O. Patna has also been dropped.

4. The Authority notes that vide proceeding dated 11.01.2024 the Administrative Wing was directed to examine and submit the report on the basis of material available on the record for further action but it could not be filed within the time granted and thereafter vide proceeding dated 01.08.2024 the Administrative Wing was directed to submit the required report within two weeks and in compliance thereof the Administrative Wing has filed its report on 01.08.2024 which is kept on the record. In the said report it is stated that the present case does not fall under the purview of Section 7 of the RERA Act, 2016 and, to that effect, a letter no. 74/2022 dated 19.06.2022 has been sent to the complainant stating therein that “The Authority observed that Sub Judge XI Patna, in T.S. No: 233/2023, did not find a prima facie title of the complainants over the project land and the injunction petition filed under Order 39 Rule 1, 2 along with Section 151 of the CPC was also dismissed. It is further observed that the complainant’s petition under Section 144 Cr.P.C. has also been dismissed by the Executive Magistrate. Hence, currently you have no title or possession over the project land”.

5. The Authority further notes that vide proceeding dated 01.08.2024 the complainant was directed to file rejoinder to the counter reply dated 14.12.2023, if any, within a week, failing which it would be presumed that he has nothing to say in this matter and an order would be passed on the basis of material available on the record, but the complainant has not filed the rejoinder so far. Hence, the Authority is left with no option but to pass this order on the basis of material available on the record.

6. Perused the record including the report dated 01.08.2024 submitted by the Administrative Wing, RERA, wherein, the Authority has found that the instant case does not fall under purview of Section 7 of the RERA Act, 2016 and a letter dated 19.06.2022, to the said effect, was sent to the complainant but the complainant has not responded to the said letter. Hence, this Bench holds that the Authority has rightly arrived at conclusion in its report dated 01.08.2024 that this case does not fall under the purview of Section 7 of the RERA Act, 2016 because of the fact that neither the injunction petition filed in the T.S. No. 233/2023 nor the petition filed under Section 144 Cr.P.C. could fetch favourable order so as to show that the complainants have title or possession over the project's land.

Taking into consideration the aforesaid facts, this complaint case making prayer for revocation of the registration of the project is rejected and the case is, accordingly, disposed of.

**Sd/-**  
**S.D. Jha,**  
**Member**