

**BEFORE THE MAHARASHTRA REAL ESTATE  
APPELLATE TRIBUNAL, MUMBAI**

**Appeal No. AT006000000010730**

**Mr. Abdul Rashid Kadir Bhusaree & Anr.**

**Age about - 67 yrs., Occu: Lawyer**

**R/o. Shilgaon, Post - Shilphata,**

**Tal.- Khalapur,**

**Dist.- Raigad (410203)**

**... Appellants**

**Versus**

**The Deccan Residency**

**Through Proprietor**

**Age about - 39 yrs., Occu: Business**

**R/o. C-104, Rashmi Drashant,**

**Mangal Nagar, Near G C C Club,**

**Mira road, Mumbai – 401107**

**... Respondent**

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(Shri Rizwan Bhusaree, Advocate for Appellant  
Shri Sachin Bhosale, Advocate for Respondent.)

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**CORAM : INDIRA JAIN J.,CHAIRPERSON &  
S.S. SANDHU, MEMBER(A)**

**DATE : 09<sup>th</sup> MAY, 2019.**

**JUDGMENT (PER : INDIRA JAIN, J.)**

This appeal takes an exception to the order dated 07/09/2018 passed by the Learned Member (1) MAHARERA in complaint no. 06000000054847.

2. The facts giving rise to the present appeal may be stated in brief as under :

(i) It is the case of complainant that he is the owner of landed property Survey No. 23/1, CTS. 2196 situated at Mauje - Shil, Tal.-Khalapur, Dist.- Raigad. The said land was purchased by complainant on 26/01/1980 from late Ramchandra Genu Sutar. As there was dispute between heirs of Ramchandra Genu Sutar and complainant regular Civil Suit No. 2/1995 was filed before the Civil Court. The suit was decreed on 27/04/2007 and heirs of late Ramchandra Sutar were directed to transfer the land in favour of complainant by executing the Sale Deed. Thereafter, regular Darkhast no. 2/2016 came to be filed against legal heirs of Ramchandra Genu Sutar, subsequent purchaser Tukaram Sable and promoters M/s. Srinivas Developers and M/s. Ufasa Builders and Developers.

(ii) The complainant also filed regular Civil Suit No. 90/2017 for perpetual injunction and regular Civil Suit No. 7 of 2018 for cancellation of Sale Deed which was executed in favour to Tukaram Sable. All the proceedings are pending before the Civil Court, Khalapur.

(iii) The main grievance of complainant is that M/s. Ufasa builder has started illegal construction of about 84 flats on the disputed land. After commencement of Real Estate (Regulation & Development) Act, 2016 (for short, 'the Act') promoter registered the project "Deccan Residency" with MAHARERA vide registration no. P52000006375. According to complainant, promoter was aware of civil litigation but failed to disclose the same at the time of registration of project. It is alleged that promoter deliberately made false statement and got the project registered in violation of the provisions of Section 4 which needs to be revoked under Section 7 of the Act of 2016.

3. Complainant then filed complaint under Sections – 7, 36, 38 & 60 of the Act seeking the following reliefs to -

- (a) revoke registration of the project;
- (b) impose heavy penalty on the promoter;
- (c) not to issue any further certificate in future;
- (d) prosecute for false information and cheating;
- and
- (e) restrain the promoter from selling flats.

4. Respondent appeared and resisted complaint. It was submitted that Civil litigation is pending before the competent Court and as per Sec.- 4 of the Act, promoter had disclosed the litigation when he came to know about the same. It is submitted that information pertaining to the decree passed in Regular Civil Suit no. 2 of 1995 came to be

uploaded within time line given by the Authority and as the order has been fully complied, grievances made by complainant no more survive.

5. On hearing the parties, Authority came to the conclusion that respondent has disclosed the details of pending suit pertaining to the land under the Project but orders passed therein have not been uploaded on the Website. Authority observed that there is no wilful default on the part of respondent for disclosure of litigation and, therefore, respondent to update the litigation within stipulated period as mentioned in the undertaking furnished before the Authority. In this background, complaint came to be disposed of.

6. Being aggrieved, the order has been assailed by the complainant in present appeal.

(i) Appellant reiterated the facts stated in complaint. In addition, it is submitted that respondent and his Advocate have shown willingness in writing to update the information pertaining to decree in Regular Civil Suit no. 2 of 1995 within 5 days which itself is self-explanatory to show that true disclosure was not made in the application for registration.

(ii) According to appellant, registration of the project is based on false information and needs to be revoked with a view to protect the rights of true owner of the land on which the project is coming up. Appellant also claims penalty and prosecution of the promoter for false disclosure.