

**MAHARASHTRA REAL ESTATE APPELLATE**  
**TRIBUNAL UNDER RERA Act**

**No.AT006000000010656**

Marvel Omega Builders  
Jewel Tower  
301-302 Lane No.5, Koregaon Park,  
Pune 411 001

**.. Appellant/s**

V/s.

1. Vaishali Sudip Shahapurkar
2. Mr.Sudip Shahapurkar  
C-703, Shrinivas Blossom  
Boulevard, Koregaon Park,  
Lane No. 7,  
Pune 411 001.

**..Respondent/s**

Shri S.N.Yadav for Respondents Vaishali and Sudip Shahapurkar.

Shri D. Kartik, authorized signatory for Appellant / Promoter.

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.

Heard on : 11<sup>th</sup> December, 2018

Dictated/Pronounced on : 11<sup>th</sup> December, 2018

Transcribed on : 13<sup>th</sup> December, 2018

**-:ORAL JUDGMENT:-**

Heard finally.

1. The Promoter feels aggrieved by order dtd. 31.8.2018 of Ld. Adjudicating Officer, MahaRERA, Pune rejecting his application to dismiss his complaint and imposed the cost of Rs. 25,000/-.
2. It is a matter of record between the parties that Allottees' complaint has reached final stage. Grievance from the Allottee is that the building 'C' Wing is incomplete supported by documents / correspondence exchanged between the parties.




3. The Promoter / Appellant says that indeed Completion Certificate dtd. 3rd September, 2016 issued by Planning Authority, – Municipal Corporation, Pune is in force and hence the project being already completed prior to RERA coming into force dtd. 1st May, 2017 the complaint would not be maintainable.
4. It is thus explicit that the completion certificate dtd. 3.9.2016 is to be established by cogent evidence by the Promoter / Appellant. At the same time the allegations of shabby state of affairs at the site including incomplete nature of the flat will have to be coherently established either by photographs or by getting a commission nominated, by the Allottee.
5. In the situation request by Promoter to dismiss the complaint at threshold was not maintainable. For that purpose, the order cannot be said to be wrong. Thus opportunity needs to be given to both the sides before the Ld. Adjudicating Officer, Pune.

**:- ORDER :-**

1. The appeal is partly allowed.
2. The cost of Rs. 15,000/- is set aside.
3. Both parties are at liberty to lead evidence to prove completion certificate issued by Pune Municipal Corporation dtd. 3.9.2016 and at the same time the allottee is at liberty to refute completion of the building in the legal sense or that it is not habitable.
4. No costs in the appeal.

Dictated and pronounced in open Court today.

Place: Mumbai  
Dated: 11<sup>th</sup> December, 2018

  
(K. U. CHANDIWAL, J.)  
President,  
Maharashtra Revenue Tribunal,  
Mumbai  
& I/c. Maharashtra Real Estate  
Appellate Tribunal, (MahaRERA),  
Mumbai