

छत्तीसगढ़ भू-संपदा विनियामक प्राधिकरण रायपुर

आदेश पत्रिका

क्रमांक -

प्रकरण क्रमांक—M-PRO-2019-00682

आवेदिका : श्रीमती शारदा देवी अग्रवाल, निवासी-ई/33, आनंदम वर्ल्ड सिटी, कचना, रायपुर (छ.ग)
विरुद्ध मेसर्स गोल्ड ब्रिक्स इन्फ्रास्ट्रक्चर प्रा.लि., द्वारा-डायरेक्टर-श्री राकेश सरौगी,
निवासी-आनंदम वर्ल्ड सिटी, जी.ए.डी. कॉलोनी, कचना मेन रोड, रायपुर (छ.ग.)

आदेश कार्यवाही की तारीख व स्थान	आदेश अथवा कार्यवाही	पक्षकार अथवा प्रतिनिधि के हस्ताक्षर
14/09/2022	<ol style="list-style-type: none">1. Four Similar cases taken together.2. Complainant through LA Mr. Akash Gupta.3. Respondent through LA Mr. Shashwat Surana.4. Complainant has filed application under section-340 of the Code of Criminal Procedure, 1973 stating that respondent in his previously submitted application under section-35 of the RERA Act, 2016 has mentioned that the complainant has not obtained NOC for construction from Respondent. However, the Complainant, in his reply to above mentioned application has submitted a copy of NOC provided by the Respondent to Municipal Corporation, Raipur and Department Of Town and Country Planning. Complainant has stated further that the submissions made by Respondent in application dated 08.06.2022 are false, which is an offence, to be prosecuted under section- 340 of the Code of Criminal Procedure, 1973. <p>Therefore, the complainant has requested to take appropriate action against the Respondent. Complainant has also filed application dated 04/08/2022 under section-35 of the RERA Act, 2016 for inspection of the documents listed in Annexure-A1 submitted along with application. Complainant has stated that the project in question is illegal in various aspects and desired an enquiry mentioning following reasons :-</p>	

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	<p>(i) The title of project land is not entirely with Respondent but a part is government land and the respondent has obtained permission from Town and Country Planning Department based on false affidavit.</p> <p>(ii) Respondent is not able to complete project because of above-mentioned anomaly Respondent is seeking more time by forging documents and illegally modifying the layout.</p> <p>(iii) Respondent has misrepresented in the brochure by mentioning facilities of the entire project; but he has registered the project in phases and is not allowing all residents to use all facilities.</p> <p>(iv) Respondent has modified layout of the project without taking consent of the 2/3rd allottees of the entire mega project.</p> <p>Complainant has further stated that the enquiry of documents mentioned in Annexure-A1 is essential to protect the interest of buyers in the project. Hence, Complainant has requested to allow his application for necessary inspection of documents.</p> <p>5. Respondent, in his reply to application filed under section-340 of the Code of Criminal procedure, 1973, has denied all averments made by Complainant and stated that complainant is abusing the process of law by selectively interpreting the contentions of Respondent. Respondent has also stated that he had issued NOC for joint construction of villas in 7 plots owned by Complainant and his family members. However,</p>	

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	<p>Respondent has not provided NOC for change in elevation, building plan, symmetry etc. Respondent has further stated that the complainant has misrepresented the NOC on various occasions and the construction of houses done by Complainant and his family members is breach of conditions imposed in Sale deed/fit-out manual. Respondent has also mentioned that Complainant has caused damage to internal roads and encroached the footpath for parking. Respondent has also mentioned the decision of Hon'ble High Court of MP in case of Smt. Kamalvasini Agrawal Vs R. D. Agrawal CRI.I.J.4320:2002(3) MPLJ 220. Therefore, Respondent has requested to dismiss the application of complainant with costs.</p> <p>Respondent, in his reply to application filed under section-35 of the RERA Act, 2016 by the complainant has denied all averments made by the complainant and stated that the averments made by complainant are false and baseless. The Respondent has stated that page no. 2 of the Annexure appears to be a selective document which has not been obtained as a certified copy or under RTI Act, which is illegal and unethical. Respondent has also stated that he has completed phase-1 of the project as per the approved and amended layout and also obtained completion certificate from competent Authority for phase-1. Respondent has stated further that he has modified the layout after taking consent from two-third allottees as per provisions of RERA Act. According to Respondent,</p>	

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	<p>Complainant had previously also filed complaint with respective Authorities against him. Therefore, Respondent has requested to dismiss the application of Complainant with costs.</p> <p>6. After hearing learned counsels for the parties at length; question that emerges for consideration is "Whether the applications filed by Complainant under section-340 of the Code of Criminal Procedure, 1973 and under section-35 of RERA Act, 2016 should be allowed?" In application submitted under section-340 of the Code of Criminal Procedure, 1973 the complainant has pleaded that the respondent has made false averments regarding not providing NOC to the complainant in application dated 08.06.2022. The respondent in his reply has denied the allegations of the complainant and stated that he had provided NOC only for joint construction of houses in 7 plots owned by complainant and his family. Respondent has further stated that he has not provided any NOC for change in building elevation, symmetry etc. to Complainant. After reading the application filed by respondent, which the complainant has alleged as false, it appears that respondent has mentioned that he has not provided NOC for approvals, boring work etc. However, the Respondent has not mentioned that Complainant has never taken any NOC. Since, Respondent is disputing only the purpose of NOC and has not said that he has never given NOC to complainant; the submissions of the Respondent in alleged application do not seem to be false. Hence,</p>	

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	<p>there is no need to take any action against the Respondent under section- 340 of Code of Criminal Procedure, 1973; and the application filed by the Complainant in this regards is disallowed.</p> <p>Complainant has also filed application under section-35 of the RERA Act, 2016 for enquiry into the validity and legality of various documents/ permissions obtained by Respondent. However, the Respondent has denied the claims made by the Complainant in his application and has submitted completion certificate of phase 1 of the project. On scrutiny and examination of Annexure-1 (list of documents to be inspected and enquired) submitted by Complainant with his application it appears that the complainant has requested for inspection of all approvals, records, books of account, bank accounts, completion certificate etc related to the project from year 2009 till date. In light of the above, it is important to mention that the approvals issued or completion granted by any competent Authority is done only after following the due process in accordance with the laws prevalent at that time. It is also noteworthy that Complainant is seeking for inspection of approvals given in 2009 when the mega project along with its phases is already registered with CGRERA. CGRERA, at time of any project registration scrutinizes all approvals, title of land etc. and grants registration only after every approval is valid and legal. The complainant has not brought on record any concrete and reliable evidence to</p>	

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	<p>prove that Respondent has obtained any approval illegally. In light of the above mentioned facts, it seems that enquiry and inspection of documents requested by Complainant is not required. Therefore, the application filed by Complainant regarding above is also disallowed.</p> <p>7. Case fixed for further proceedings. Both sides should submit final written arguments.</p> <p style="text-align: center;">Sd/- (R.K. Tamta) Member</p> <p style="text-align: center;">Sd/- (Vivek Dhand) Chairman</p>	

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