



Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO.49 OF 2021

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Sandeep Pandurang Patil,

S/o Pandurang Sitaram Patil.

Age – 41 years, Occupation – Architect,

Residing at Sitaram Niwas,

Near Datta Mandir,

Golavli Village, Kalyan – Shil Road. MIDC,

Dombivli (East),

PIN – 421 203

Taluka Kalyan, Dist. Thane.

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PAN No.AKEPP8003E

... Petitioner

V/s.

1. The State of Maharashtra.,

Through Chief Secretary of Urban
development, Mantralaya, Mumbai 400 032.

**2. Maharashtra Real Estate Regulatory
Authority**

6th & 6th Floor, House fin Bhavan, Plot No.C-
21, E- Block, Bandra Kurla Complex,
Bandra (E), Mumbai 400051

3. The Joint District Registrar, Class

Thane Collector office, 4th floor,
Thane (W), 400 601.

4. The Municipal Commissioner,

Kalyan Dombivli Municipal Corporation,
Shankarrao Chowk, Kalyan,
Tal Kalyan, District Thane 421301.

5. M/s Sai Builders and Developers

Suraj Palace, Shop No.1, Shree Malang
Road, Near Namaskar Dhaba, Nandivali,
Talav Road, Kalyan (E).

... Respondents

Mr. P. I. Bhujbal for petitioner.

Mr. A. K. Saxena for MahaRERA-respondent No.2.

Mr. Rajat V. Dighe i/by Mr. A. S. Rao for respondent No.4.

Mr.O. A. Chandurkar, Additional Government Pleader,
Mrs.G. R. Raghuwanshi, AGP for respondent Nos.1 and 3.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ
& AMIT BORKAR, J.**

RESERVED ON : NOVEMBER 11, 2024

PRONOUNCED ON : NOVEMBER 19, 2024

JUDGMENT: (Per Amit Borkar, J.)

1. The petitioner, invoking jurisdiction of this Court under Article 226 of the Constitution of India, seeks a writ of mandamus to enforce statutory compliance and establish accountability among the State of Maharashtra, Maharashtra Real Estate Regulatory Authority (MahaRERA), and local planning authorities. The petitioner contends that under Sections 32 and 34 of the RERA Act, MahaRERA is vested with powers to facilitate an effective regulatory mechanism, which includes devising methods to ensure the verification of documents submitted by developers. Furthermore, the

petitioner argues that the lack of coordination between MahaRERA and local authorities contravenes the fundamental objectives of the RERA Act, particularly the protection of home buyers from fraudulent real estate practices. The petitioner, therefore, seeks the Court's intervention to direct respondents to adopt a rational policy framework to prevent registration of illegal buildings and to verify the authenticity of documentation submitted for project registration.

2. The petitioner emphasizes that Sections 3, 4, and 5 of the RERA Act require developers to obtain a valid registration certificate by submitting genuine project details, including approvals from competent authorities. The Government Resolution dated 3rd May 2018 serves as a legal mandate under the Maharashtra Municipal Corporation Act, 1949, and the Maharashtra Regional and Town Planning Act, 1966, requiring local authorities to maintain and disclose public record of legal and illegal constructions. This is crucial for safeguarding potential buyers, in line with the objectives of the RERA Act. Additionally, the Government Resolution dated 20th September 2019 restricts the registration of projects that lack RERA certification or a completion certificate, reaffirming the intent to prohibit registration of projects

developed without requisite approvals. These measures reflect a legislative and administrative commitment to protect public interest, and the petitioner argues that the respondents must implement them to prevent malpractices in the real estate sector.

3. The petitioner submits that the project by respondent No.5, allegedly registered on 15th October 2020 based on a forged commencement certificate, illustrate a larger issue of developers exploiting regulatory loopholes. The petitioner points to widespread unauthorized construction in approximately 27 villages within Kalyan and Ambarnath Talukas, suggesting that developers circumvent compliance requirements by creating forged documents. The petitioner argues that under Section 7 of the RERA Act, MahaRERA possesses the authority to revoke registrations obtained through fraudulent means, and thus a coordinated mechanism is essential to detect and deter such malpractice. The petitioner further requests this Court to issue guidelines for a framework that ensures prompt verification of essential documents, such as commencement and occupation certificates, to maintain transparency and prevent wrongful project registrations.

4. In response to the Court's notice, MahaRERA states in its affidavit that it has exercised its powers under Section 7(1) of the RERA Act, which authorizes the Authority to revoke project registration in cases of fraudulent documentation. The Authority's decision to revoke the project registration of respondent No.5 on 8th September 2021 aligns with Section 7(4)(c), which empowers MahaRERA to freeze accounts related to non-compliant projects, preventing further transactions that could affect innocent purchasers. MahaRERA further submits that it has urged the Government of Maharashtra to establish a centralized digital platform as mandated under Section 34(f) of the RERA Act, facilitating inter-agency verification of milestone approvals like commencement and occupation certificates. The authority contends that such a platform would allow both MahaRERA and the public to cross-verify the authenticity of documents, thereby upholding the RERA Act's objectives.

5. In its affidavit, MahaRERA states that it has coordinated with the Urban Development Department to implement a mechanism whereby all statutory documents issued by planning authorities are uploaded immediately on their respective websites. This measure aligns with Section 35 of

the RERA Act, which empowers the authority to call for information and conduct inquiries to prevent malpractices in real estate dealings. The Deputy Inspector General of Registration and Deputy Controller of Stamps have been directed not to register documents pertaining to respondent No.5's project, per the Government Resolution dated 20th September 2019. MahaRERA also received a list of 65 fraudulent commencement certificates from the Assistant Town Planner, which were used by other developers. In light of this, MahaRERA has initiated proceedings to cancel registrations for 64 projects under Section 7(1) of the RERA Act, reinforcing its commitment to curb fraudulent practices. Furthermore, MahaRERA's website integration with the Municipal Corporation of Greater Mumbai enables real-time document verification within Mumbai's jurisdiction, and similar integrations with other municipal bodies are underway to ensure uniform compliance across the State of Maharashtra.

6. The affidavit indicates that the Government of Maharashtra, through its Urban Development Department, issued a Government Resolution dated 23rd February 2023 mandating all Municipal Corporations, Municipalities, and urban local bodies to complete the integration of their

respective websites with the website of respondent No.2 (MahaRERA) by 31st March 2023. This integration is intended to create a unified platform for verifying the legitimacy of commencement certificates and occupation certificates, essential for protecting homebuyers under the provisions of the RERA Act. Furthermore, respondent No.2 issued a directive on 15th May 2023, effective from 19th June 2023, mandating that registration proposals under the RERA Act will only be processed after confirmation of the commencement certificate's authenticity. This process, authorized under Sections 34(b) and 35 of the RERA Act, empowers respondent No.2 to take action against fraudulent submissions, as evidenced by the revocation of registrations for four real estate projects based on forged commencement certificates. These measures reflect the regulatory framework designed to safeguard the interests of homebuyers, ensuring compliance with the RERA Act's mandate.

7. Respondent No.1 has submitted an affidavit detailing the steps undertaken for the integration of Maharashtra's Building Plan Management System with MahaRERA's platform. The affidavit emphasises that the integration will streamline the verification process and bring transparency to real estate

registrations. While it is stated that 454 local bodies have begun displaying commencement certificate and occupation certificate details on the system, approximately 26 planning authorities have yet to comply with this directive. This delay potentially prevents effective regulatory supervision and the RERA Act's objectives, particularly Sections 32 and 34, which emphasize transparency and accountability in the real estate sector. Respondent No.1 assures the Court that the integration is progressing and anticipates completion within two months, thereby enabling respondent No.2 access to verify developers' claims regarding commencement and occupation certificates.

8. In its affidavit, respondent No.4 states that it has proactively communicated with the Inspector General of Registration and Controller of Stamps, Maharashtra, on 9th April and 20th April 2021, requesting verification of the sanctioned plans uploaded on its website to prevent misuse. Additionally, a toll-free number has been made available for public inquiries regarding sanctioned plans, thereby enhancing transparency as mandated by Section 11 of the RERA Act. Respondent No.4 further asserts that for the 65 projects whose registrations respondent No.2 revoked under the RERA

Act due to fraudulent commencement certificates, notices under Section 260 of the Maharashtra Municipal Corporation Act, 1949 (MMC Act) were issued to initiate enforcement actions. The affidavit reveals that first information reports (FIRs) were filed for 57 projects, in compliance with Section 260 and Section 267 of the MMC Act, to enforce action against unauthorized structures. Of these, six structures were fully demolished, four were partially demolished, while 48 remain fully occupied. The Municipal Commissioner, exercising powers under Section 268(5) of the MMC Act, directed police authorities to facilitate the removal of occupants from these structures, which would allow the municipal corporation to proceed with demolition. This action highlights the stringent enforcement mechanism available under the MMC Act and underscores the need for ongoing coordination among planning authorities to safeguard against unauthorized construction.

9. Mr. Bhujbal, learned counsel for the petitioner, argued that the current measures undertaken by the respondents are insufficient to address the petitioner's grievances adequately. He emphasized that a comprehensive verification process for commencement certificates, occupation certificates, and

sanctioned plans must be implemented statewide. He submitted that the Enforcement Directorate has already taken cognizance of the matter, initiating proceedings against respondent No.5 under an ECIR (Enforcement Case Information Report), indicating a serious need for further regulatory scrutiny. He argued that it is essential for this Court to issue appropriate directions aligned with the prayers sought to uphold accountability of developers toward consumers. He stressed that Sections 31 and 35 of the Real Estate (Regulation and Development) Act, 2016 (RERA Act), empower RERA to act proactively in cases of fraud and delays in complaint resolutions, emphasising the need for a robust framework to prevent fraudulent practices within the real estate sector.

10. On behalf of respondent No.4, Mr. Dighe, instructed by Mr. Rao, and Mr. Saxena, learned counsel for respondent No.2, contended that the steps outlined in the respondents' affidavit-in-reply sufficiently address the reliefs sought by the petitioner. They argued that significant progress has been made in implementing a coordinated verification system, as evidenced by Order No.45 of 2023, which mandates the integration of respondent No.2's website with those of

Municipal Corporations, Municipal Councils, and local bodies throughout Maharashtra. This measure, they asserted, establishes a system for verifying the authenticity of commencement certificates, in alignment with Section 4 of the RERA Act, which mandates submission of an authenticated commencement certificate for project registration. Given the steps taken towards compliance, respondents' counsel urged the Court to consider disposing of the petition based on these statements, while also emphasizing the continued implementation of the integration and verification process as an effective remedy for the petitioner's concerns.

11. We have carefully examined the petition, the respondents' affidavits, and the arguments of counsel. The petitioner seeks directions to establish a comprehensive policy for coordination among respondents and local authorities, aimed at preventing fraudulent registration of real estate projects under the RERA Act on the basis of forged documents, including commencement certificates and sanctioned plans. It is pertinent to note the legislative intent behind the Real Estate (Regulation and Development) Act, 2016. The RERA Act, introduced in 2013 and enacted in 2016, was born out of the need for regulatory measures in a sector

that had seen substantial growth but lacked adequate consumer protections. As stated in the Act's Statement of Objects and Reasons of the Act, the primary objective is to safeguard home buyers and promote transparency in real estate transactions. This regulatory framework was envisioned to address consumer grievances by establishing accountability mechanisms for developers, minimizing fraud, and reducing delays. Section 3 of the RERA Act mandates prior registration of real estate projects with RERA, prohibiting any advertisement or sale without proper registration, thus reflecting the legislature's intent to curtail unscrupulous practices in the real estate sector.

12. Section 4 of the RERA Act requires the promoter to apply for registration in a prescribed manner, with accompanying documents as per subsection (2), which includes an authenticated copy of approvals and the commencement certificate from the competent authority {Section 4(2)(c)}. Additionally, the promoter must submit the sanctioned plan, layout plan, and project specifications {Section 4(2)(d)}. These requirements ensure that RERA is furnished with reliable and authenticated documentation. Section 7 further empowers RERA to revoke registration on grounds of default

or violation of regulatory provisions. This framework aligns with the aim to safeguard consumer interests by holding developers accountable. It underlines the necessity for RERA to verify the authenticity of documents proactively, a measure that, in the context of this case, could prevent instances of forgery and fraudulent submissions. Respondent No.2's revocation of project registrations for four projects on the grounds of fraudulent commencement certificates demonstrates the application of these provisions in practice.

13. Chapter V of the RERA Act establishes the Real Estate Regulatory Authority and vests it with broad powers to regulate the real estate sector. Section 13(2) empowers RERA to promote transparency and efficiency within the industry and to make recommendations to the appropriate government for the protection of allottees, promoters, and real estate agents. Section 35 further authorizes RERA to call for information, conduct investigations, and address complaints or initiate actions *suo motu* if deemed necessary. These statutory powers are crucial for ensuring accountability, deterring fraudulent practices, and safeguarding the interest of stakeholders. In exercising these powers, RERA can institute rigorous verification processes and recommend

systemic reforms to mitigate the risk of fraud in real estate transactions.

14. Section 4(1) requires the promoter to submit an 'authenticated copy' of the commencement certificate from the competent authority at the time of applying for registration. The term "authenticated" implies a level of verification beyond merely accepting documents on their face value. Therefore, it is imperative that RERA insists on verifiable, legally authenticated documents to substantiate the claims made by the promoter. Given advances in digital governance, RERA could enhance its coordination with local Municipal Councils, Municipal Corporations, and Urban Development Planning Authorities, creating direct access to their databases for immediate document verification. This integration would enable RERA to conduct real-time verification of commencement and occupation certificates, thereby preventing forgery and protecting consumers' interests in line with the RERA Act's objectives. Establishing such a system would reflect the legislative intent to strengthen regulatory supervision, reduce fraud, and foster trust in the real estate sector.

15. The affidavit-in-reply filed by respondent No.2 outlines significant steps to ensure transparency and prompt availability of statutory documents. This includes a directive to the Secretary (Housing), Government of Maharashtra, and local planning authorities to upload all statutory certificates—including commencement certificates, occupation certificates, and sanctioned plans—immediately upon issuance on their respective websites. Further, any changes, additions, alterations, or modifications must be uploaded promptly to reflect the latest status of each project. The affidavit highlights that the website of respondent No.2 has already been integrated with the Municipal Corporation of Greater Bombay's portal. Additionally, integration with other Municipal Corporations, Municipalities, and Urban Local Bodies across Maharashtra is said to be underway. Notably, Order No.45 of 2023, dated 15th May 2023, mandates that from 19th June 2023 onwards, project registration applications will only be processed after the submitted commencement certificates are verified for authenticity. However, this procedure applies exclusively to authorities that have completed integration with respondent No.2's website, reinforcing the policy of stringent verification and compliance before project registration.

16. Respondent No.1, in its affidavit-in-reply, has stated that integration of the Building Plan Management System (BPMS) of Maharashtra with MahaRERA's website is underway. Currently, 454 local bodies have begun displaying details related to commencement and occupation certificates on the BPMS website, allowing respondent No.2 to access and verify the authenticity of these documents against the claims made by developers. This digital integration aligns with Sections 4(2)(c) and 4(2)(d) of the RERA Act, which mandate promoters to submit authenticated copies of commencement and occupation certificates as part of the project registration process. The measures detailed in the affidavits by respondent Nos.1 and 2 demonstrate substantial compliance with the reliefs sought by the petitioner, enhancing transparency and minimizing the risk of fraudulent submissions.

17. The petitioner also seeks a prohibition against respondent No.5 from registering properties constructed on Plot bearing Survey No.47, Hissa No.19, Village Adivali-Dhokali, Taluka Ambarnath, District Thane. This relief has been addressed by respondent No.2's revocation of respondent No.5's registration under the RERA Act on 8th

September 2021. Additionally, the Bank Manager of Ambernath Jain Hind Co-Op Bank Ltd., Kalyan East, has been directed to freeze respondent No.5's bank account until further orders, effectively curtailing its ability to transact within the contested project. Further, the Deputy Inspector General of Registration and Deputy Controller of Stamps, Konkan Division, Thane, has directed the Joint Sub Registrar's office in Ambernath not to register any sale agreements related to respondent No.5's real estate project, providing a robust response to the petitioner's allegations against respondent No.5's conduct.

18. Regarding the petitioner's request for scrutiny of real estate projects in 27 villages in Kalyan, this relief is addressed by the revocation of registrations for 64 projects, as ordered on 3rd and 21st November 2022. These revocations followed the Assistant Town Planner's communication confirming that the 65 commencement certificates listed in its letter dated 17th August 2022 were not issued by its office. This action reflects respondent authorities' adherence to their statutory duties under Section 7 of the RERA Act, empowering RERA to revoke project registrations where fraudulent or forged documentation is involved, thereby protecting consumer

interests and deterring unauthorized real estate activities.

19. Counsel for the petitioner argued for the re-scrutiny of all registration certificates issued by the RERA Authority across Maharashtra, claiming that such scrutiny is warranted given the issues raised. However, in our view, the relief sought in prayer clause (b) appears to seek a broad, speculative inquiry into the integrity of all real estate project registrations across the State. Established legal principles dictate that a petitioner must present prima facie evidence substantiating claims of forgery or fraud specific to identified projects. The Supreme Court has consistently held that courts should refrain from ordering generalized inquiries lacking substantive factual basis, as they fall outside the scope of judicial review. To mandate such re-scrutiny in the absence of concrete, specific instances of alleged forgery would not only overreach judicial authority but also risk encumbering regulatory bodies with speculative investigations that lack substantive grounding. Consequently, the petitioner must provide factual material related to specific projects to substantiate such claims and avoid a sweeping and unsubstantiated mandate for statewide re-scrutiny.

20. The legal position is well settled that, under Article 226 of the Constitution, courts should not engage in speculative or roving inquiries. In **A. Hamsaveni & Ors. v. State of Tamil Nadu**,¹ the Supreme Court held that a petitioner must independently establish a prima facie case, and that court proceedings should not be used as a means to conduct speculative investigations. Similarly, in **N.K. Singh v. Union of India**,² the Court emphasized that a speculative inquiry is neither warranted nor justified under judicial review, particularly when private rights are at issue. The principle was reiterated in **Ratan Chandra Sammanta v. Union of India**,³ where it was held that a writ should only be issued when the petitioner has an established right, and that speculative inquiries unsupported by evidence are impermissible. Additionally, **Gulabchand Bapalal Modi v. Municipality of Ahmedabad**,⁴ reinforced that mandamus cannot be issued in cases where there is no established legal right. Accordingly, without substantive material to substantiate allegations of widespread forgery or fraud, this Court is not inclined to grant the petitioner's request for a generalized scrutiny across

1 (1994) 6 SCC 51.

2 (1994) 6 SCC 98.

3 1993 Supp (4) SCC 15.

4 AIR 1971 SCC 2100.

Maharashtra's RERA registrations.

21. Given the nature of the issues raised by the petitioner concerning the potential for forged commencement certificates, any aggrieved party retains the right to approach respondent No.2 through appropriate legal proceedings as permitted under the RERA Act, 2016, to seek cancellation of a project's registration. Sections 7 and 11 of the RERA Act empower respondent No.2 (MahaRERA) to revoke or suspend registrations if prima facie evidence of fraud, misrepresentation, or use of forged documents in obtaining commencement certificates is established. This Court emphasizes that the statutory framework of the RERA Act provides sufficient remedies for affected parties to initiate proceedings for redressal upon submission of credible material indicating the use of forged certificates.

22. With a view to safeguard the interests of homebuyers and ensure transparency in real estate project registrations, this Court issues the following directions:

(1) Respondent No.1 shall ensure rigorous compliance with the Government Resolution dated 23rd February 2023, issued by the Urban Development Department.

This resolution mandates standardized procedures for the issuance and publication of commencement and occupation certificates, ensuring transparent access to information for stakeholders. Compliance shall be monitored periodically to uphold the integrity of project documentation.

(2) All Municipal Corporations, Municipalities, and Urban Local Authorities in the State of Maharashtra shall link their respective websites with the MahaRERA portal within three months from the date of this judgment. Such integration is imperative for establishing a streamlined process for verifying the authenticity of certificates submitted in real estate registrations, as envisaged under Section 4 of the RERA Act.

(3) Until full integration is achieved, all Municipal Corporations, Municipalities, and Urban Local Authorities must ensure that commencement and occupation certificates are uploaded on their respective websites within 48 hours of issuance, to maintain interim transparency and public access.

(4) Effective from 19th June 2023, respondent No.2

(MahaRERA) shall verify the authenticity of all commencement certificates submitted by promoters during project registration. Only upon verification should registrations be granted, in compliance with Order No.45 of 2023, dated 15th May 2023. This verification process aligns with Sections 4 and 5 of the RERA Act, ensuring that only projects with genuine and verified documentation are registered.

(5) Respondent No.1 shall complete the integration of the Building Plan Management System (BPMS) with MahaRERA's online system within three months from the date of this judgment. This integration will enable respondent No.2 to cross-verify certificates against records in BPMS, mitigating the risk of fraudulent submissions and enhancing regulatory oversight.

(6) Respondent No.2 shall carry out the demolition of illegal structures as specified in paragraph 5 of the affidavit dated 20th August 2024 in accordance with law. The concerned police station is directed to provide all necessary assistance to Municipal Corporation officials in removing occupants, as requested by authorized

officers, to ensure that demolition process is conducted without hindrance. The entire demolition procedure shall be completed within three months from the date of this judgment.

23. The PIL petition is hereby disposed of in accordance with the aforementioned terms, with liberty granted to any aggrieved party to seek appropriate legal recourse as outlined in this judgment.

24. All pending interlocutory application(s), if any, stands disposed of.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)