2026:AHC-LKO:33185

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

A.F.R.

RERA APPEAL No. - 169 of 2025

U.P. Real Estate Regulatory Authority Thru. Secy.
.....Appellant(s)

Versus

M/S Maa Bhagwati Commerical Reality N Resorts Llp B-20/2 New Delhi
.....Respondent(s)

Counsel for Appellant(s)	:	Shireesh Kumar, Shobhit Mohan Shukla
Counsel for Respondent(s)	:	Swetank Sharma, Swetank Sharma, Syed Aftab Ahmad

Court No. - 19

HON'BLE SYED QAMAR HASAN RIZVI, J.

1. Sri Shobhit Mohan Shukla, learned counsel for the appellant and Sri Sudeep Seth, Senior Advocate assisted by Sri Syed Aftab Ahmad, learned counsel for the respondent are present.

2. By means of the instant appeal under section 58 of the Real Estate (Regulation and Development) Act, 2016 the U.P. Real Estate Regulatory Authority, the Appellant, has challenged the order dated 25.09.2025 passed by the Real Estate Appellate Tribunal (REAT), Lucknow in Appeal No. 135 of 2025 *(M/s. Maa Bhagwati Commercial Reality N Resorts LLP vs. UP Real Estate Regulatory Authority)* thereby directing the Regulatory Authority to grant registration for the respondent's project and to grant Registration Number including a Login ID and Password within 7 days while setting aside the order dated 10.03.2025 passed by the Real Estate Regulatory Authority (RERA) Lucknow.

3. The facts, in nut-shell, as culled out from the pleadings available on record, are that a public charitable trust, namely 'Udasin Sangat Rishi Aashram, Ranopali, Ayodhya, Uttar Pradesh, (hereinafter referred to as Trust,) registered in the Office of the Sub-Registrar, Sadar, Ayodhya, vide Registration No. 275/2019 is the owner of the plots of land having Gata

Nos.309 and 328, situated at village Ranopali, Pargana Haveli Awadh, Tehsil Sadar, District Ayodhya, admeasuring, 26000.58 sq.mtrs.

4. The above-mentioned Trust granted lease for a period of 29 years and 11 months in favour of the respondent/appellant by means of Registered lease dated 29.09.2023, to construct a commercial building, on a yearly consideration at the rate of Rs.60,00,000/- with five per cent increase after every five years. The term of the 'lease' is renewable by mutual consent.

5. The Respondent/Appellant having obtained the relevant and necessary clearances, applied with the Uttar Pradesh Real Estate Regulatory Authority (hereinafter referred to as UP RERA) for registration of its project, 'Samrajya', on 02.02.2025, vide application ID 1426755, in terms of Section 4 of the Real Estate (Regulation and Development) Act, 2016 and in conformity with the Standard Operating Procedure (SOP) of the real estate project issued by U.P. Real Estate Regulatory Authority. However, the Regulatory Authority vide communication dated 06.02.2025, inter-alia, raised objection, as is reflected from the impugned order, alleging that from the land details it is not clear whether the land owner /lessor is having leasing rights and that it is also not clear as to how could the land owner give sub-leasing rights to the lessee, as the property belongs to a Trust.

6. The Respondent/Appellant acknowledged the objections/notice and submitted a reply vide communication dated 11.02.2025, inter alia, stating that the leasing rights in favour of the applicant firm are clearly ascertainable from the trust-deed itself, which had already been uploaded on the portal. Along with the same, copies of the *Khatauni* extracts evidencing the title of the trust over the plots in question were also furnished.

7. The Regulatory Authority, however, vide communication dated 21.02.2025 reiterated the same objections regarding land details and leasing/sub-leasing rights. In response, the appellant clarified that the right to sub-lease had been expressly conferred upon it under the terms of the lease-deed. The Respondent herein Appellant also uploaded the lease-deed along with the registration certificate issued by the Sub-Registrar. Despite the same, the Regulatory Authority again raised identical queries

vide communication dated 03.03.2025, questioning the authority of the land owner to grant sub-leasing rights. Ultimately the Regulatory Authority, being dissatisfied with the replies and clarifications submitted by the Respondent proceeded to reject the application for registration of the project.

8. Feeling aggrieved by the order of rejection of application for grant of registration of the project dated 04.03.2025 the Respondent herein challenged the same by filing an appeal under Section 44 of the Real Estate (Regulation and Development) Act, 2016 before the Real Estate Appellate Tribunal (hereinafter referred to as Appellate Tribunal), which came to be allowed vide order dated 25.09.2025 i.e. the impugned order.

9. The case of the Respondent/Appellant before the Tribunal was that the lessor/Trust is the absolute and lawful owner of the plots forming the subject matter of the project, and the said plots have been validly and legally leased in its favour for the purposes of development and that under the provisions of the Transfer of Property Act, 1882 the owner of a property possesses a bundle of rights, including the right to lease the property in accordance with Sections 105 to 117 of Chapter V of the Act.

10. It was further contended, before the learned Appellate Tribunal, by the Respondent/Appellant that the Regulatory Authority has committed a manifest error in questioning the right of the land owner to lease its own property. The objection raised by the Authority, to the effect that the owner lacks the right to lease the property, is wholly beyond its jurisdiction and contrary to settled legal principles and that the Authority failed to consider Section 108(j) of the Transfer of Property Act, 1882, which expressly provides that a lessee is entitled to transfer his interest, either absolutely or by way of mortgage or sub-lease, in whole or in part, and that such transferee may further transfer the same. Thus, the rights of a sub-lessee are both heritable and transferable. It was also contended by the Respondent/Appellant that the direction issued by the Authority requiring it to obtain permission under Section 92 of the Code of Civil Procedure, 1908, is legally unsustainable as the same is merely an enabling provision and cannot be construed in a manner that restricts the trustees from leasing Trust property for generating funds for the

administration and objectives of the Trust.

11. As rejection of the present respondent's application was also on the ground that the lease period is limited to 29 years and 11 months it was asserted on their behalf that the conclusion drawn by the Regulatory Authority to the effect that the lease is not of a permanent nature is erroneous and based on a misreading of the lease deed as the lease deed expressly provides for renewal by mutual consent, thereby reflecting the intention of the parties to continue the arrangement.

12. On the other hand, it was contended on behalf of the Regulatory Authority before the learned Appellate Tribunal that on the strength of the sub-lease deeds to be executed of the units by the promoter the sub-lessees would not fall within the scope and ambit of the definition, 'allottee' as defined under Section 2 (d) of the Real Estate (Regulation and Development) Act, 2016 as allottee means a person to whom a plot, apartment or building, as the case may be, has been allotted or sold but not given on rent. It was further contended that Section 2 (zk) of the Act, 2016 defines a 'promoter' as one who constructs or causes to be constructed, inter alia, building/apartment for the purpose of selling all or some of the apartments to other persons. Further, reliance was placed on the definition of the 'real estate project', defined under Section 2 (zn), wherein, a real estate project, which inter-alia means development of building or a building consisting of apartments for the purpose of selling all or some of the said apartments.

13. It was also submitted by the Regulatory Authority that the apartments/plots/building, as the case may be, could only be sold and would not include apartments/plots/building, given on rent/sub lease. It further relied upon Section 17 of Act, 2016, to submit that after completion of the project, promoter shall execute a registered conveyance deed in favour of the allottee, along with, the undivided proportionate title in the common areas, Section 2 (n) defines "common areas" inter alia, to mean the entire land for the real estate project. Further, that the promoter has obtained the land of the project on lease and is not legally competent to transfer the undivided share of the land to the allottees of the entire common areas to the association of allottees or the competent authority,

as the case may be. Therefore, under clause (a) of sub-Section (1) of Section 5 of the Act, 2016, the Regulatory Authority was justified in rejecting the application being dehors the provisions of the Act, rules and regulation made thereunder.

14. Based upon the rival submissions, the learned Appellate Tribunal framed the following questions for consideration:

> (i) whether real estate project can be developed on a leasehold property/land under Act 2016;
>
> (ii) whether lessor (trust) was required to obtain permission of the competent court for the lease under Section 92 of Code of Civil Procedure, 1908;
>
> (iii) whether the project of the appellant came to be registered in view of the deeming fiction under Section 5(2) of Act 2016.

15. The learned Appellate Tribunal answered Questions No. 1 and 2 in favour of the appellant/respondent herein and against the respondent/appellant herein while Question No. 3 was answered against the appellant/respondent herein and the Appeal was allowed in the following terms:

> "……56. Having due regard to the facts and circumstances of the case and for the reasons assigned herein above, the appeal succeeds, accordingly allowed by passing the following orders:
>
> (i) Impugned order dated 10.03.2025, passed by the Regulatory Authority is set aside and quashed.
>
> (ii) The Regulatory Authority is directed to grant registration for the appellant project and issue registration number including a Login Id and password to the appellant within seven days from the date this order is uploaded on the portal of the Tribunal.
>
> (iii) It is clarified that no other point or ground was pressed and argued by the contesting parties.
>
> (iv) No order as to costs……..."

16. Feeling aggrieved, the U.P. Real Estate Regulatory Authority

preferred the instant appeal under Section 58 of the Act, 2016 which came to be admitted by this Court on 20.11.2025 on the following substantial questions of law:

> "(i). Whether the appeal under Section 58 of the Real Estate (Regulation & Development) Act, 2016 can be preferred by the Regulatory Authority and can be termed as 'person aggrieved' as used in Section 58 of the said Act?
>
> (ii). Whether a trustee can lease out the charitable trust property without the leave of the District Judge, as provided under Section 92 of the C.P.C. 1908?
>
> (iii). Whether a real estate project can be developed and registered with Real Estate Regulatory Authority under Section 5 of the Act of 2016 on the land taken on lease for a period of 29 years and 11 months in the teeth of the provisions of section 4 (2) (l) (A) of the Act.

17. The respondent/promoter who had entered appearance through caveat, filed a Short Counter Affidavit dated 17.02.2026 stating therein that the case of the appellant before the Appellate Tribunal as well as this Court is to the effect that the Respondent is not covered within the meaning of promoter as defined under section 2 (zk) of the Act and the project was not a 'real estate project' as defined under section 2 (zn) and the appellant has made a categorical averment to the same effect in Paragraph No. 26 of its affidavit filed in support of application for stay.

18. It has further been submitted that in view of the admitted position that the respondent is not covered within the statutory definition of "promoter", it, by necessary implication, is neither required to seek registration under section 4 nor is it liable to be granted registration under section 5 of the Act, 2016 thereof.

19. In the aforesaid Short Counter Affidavit filed on behalf of the respondent, it is categorically averred that it would be expedient in the interest of justice that the present appeal be disposed of in terms of the statement/averment made by the appellant to the effect that the respondent is beyond the purview of the Act of 2016 and is not required to obtain registration for the project in question as it stands absolved of any

requirement to apply for and to obtain the registration under the provisions of the Real Estate (Regulation and Development) Act, 2016 in respect of the project in question.

20. The respondent has further stated in its Short Counter Affidavit that as per statement made by the RERA in the appeal, the nature of title is leasehold and not transferable, hence as per section 17 of the Act of 2016, the project does not fall under RERA registration. It has further been stated that as per RERA the Respondent is not covered within the purview of the Real Estate (Regulation and Development) Act, 2016 and the restrictions imposed vide Form-D are not applicable and should be revoked.

21. Finally, the learned counsel for the Respondent has very emphatically urged that under the circumstances as mentioned here-in-above, it would be expedient in the interest of justice that the appeal preferred by the Authority may be disposed of in terms of the following statement/averment as mentioned in paragraph no. 13 of the said Short Counter Affidavit:

> i. That the respondent is beyond the purview of the Real Estate (Regulation and Development) Act, 2016 and is not required to apply for registration of real estate project or be granted registration under section 5 of the Act.

Further, the Appellant U.P. Real Estate Regulatory Authority may also be directed to immediately remove the restrictive clauses contained in Form-D prohibiting the Respondent from marketing, promoting, selling, advertising, booking, or dealing with the project.

22. The Appellant/Authority did not file any rejoinder/objection to the aforesaid Short Counter Affidavit filed by the Respondent/Promoter and has agreed that the appeal may be decided in terms of the proposition made by the Respondent/Promoter. The parties have also agreed that the substantial questions of law nos. (i) and (ii) may be left to be decided in some appropriate matter and the present appeal may be decided in terms of substantial questions of law (iii) only, as rest of the questions have become redundant in view of the admitted position that the Respondent is not required to apply or be granted registration under the Act, 2016.

23. Paragraph 26 of the affidavit filed by the Appellant Authority in support of its application for stay reads as under:

> *"…...26. That the application for registration of the Project was not maintainable as the respondent was not covered within the meaning of promoter as defined under Section 2(zk) of the Act and the project was not a Real Estate Project as defined under Section 2(zn) of the Act wherein a real estate project means development of a building or a building consisting of apartments or converting an existing building or part thereof into apartments, or the development of land into plots or apartments, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto…."*

24. Now, with the consent of the parties, this Court takes up only the third substantial question of law i.e. whether a real estate project can be developed and registered with Real Estate Regulatory Authority under Section 5 of the Act of 2016 on the land taken on lease for a period of 29 years and 11 months in the teeth of the provisions of section 4 (2) (l) (A) of the Act.

25. The proposition that the Respondent is not required to be granted registration under the Real Estate (Regulation and Development) Act, 2016; emerges from the fact that it is only a lessee of the original owner/Trust and given that it is not capable of transferring the units/apartments/building, as the case may be, by way of sale, is beyond the purview of the Act, 2016.

26. Sri Shobhit Mohan Shukla, learned counsel appearing for the appellant Authority has drawn the attention of this court towards the preamble to the Act and has submitted that the respondent is not covered under Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016 as it cannot sell the plot, apartments or building and can only assign leasehold rights in the project by way of creation of sub-leases in favour of its allottees. The preamble to the Act reads as under:

> "An Act to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto."

27. It is trite in law that admissions, if clear, are by far the best proof of facts admitted. Admissions in pleading or judicial admission, if admissible, made by the parties or their agents at or before the hearing of a case, stand on a higher footing than evidentiary admissions. The former class of admissions is fully binding on the party that makes them and constitutes a waiver of proof. The Court can very well pass an order on the basis of an undisputed admission of a party in accordance with law. It is well settled that where admissions of facts and law have been made either in the pleading or otherwise, whether orally or in writing, the Court at any stage of the proceeding either on the application of a party or on its own motion without waiting for the determination of other questions, may make such order or give such judgment as it may think fit, having regard to such admission. The Hon'ble Supreme Court observed in the case of ***Ram Niranjan Kajaria versus Sheo Prakash Kajaria and others;*** reported in ***2015 (10) SCC 203*** that a party cannot be permitted to wholly withdraw the admission in the pleadings.

28. Sri Syed Aftab Ahmad learned counsel appearing for the respondent very emphatically submitted that Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016, which defines promoter, states that a person who has been assigned development rights in respect of a project for the purpose of selling the apartments or a person who develops land as a project for the purpose of selling, would only qualify as being a promoter and would, consequently, require a registration under the Act and since he cannot sell the plot, apartments or building and can only assign leasehold rights in the project by way of creation of sub-leases in favour of its allottees he stands exempted from the operation of the Act.

29. Before delving into the merits of the case, it would be appropriate to take note of the statement of objects and reasons of the Real Estate (Regulation and Development) Act, 2016, which reads as follows:

> "THE STATEMENT OF OBJECTS AND REASONS
>
> The real estate sector plays a catalytic role in fulfilling the need and demand for housing and infrastructure in the country. While this sector has grown significantly in recent years, it has been largely unregulated, with absence of professionalism and standardisation and lack of adequate consumer protection. Though the Consumer Protection Act, 1986 is available as a forum to the buyers in the real estate market, the recourse is only curative and is not adequate to address all the concerns of buyers and promoters in that sector. The lack of standardisation has been a constraint to the healthy and orderly growth of industry. Therefore, the need for regulating the sector has been emphasised in various forums.
>
> In view of the above, it becomes necessary to have a Central legislation, namely, the Real Estate (Regulation and Development) Bill, 2013 in the interests of effective consumer protection, uniformity and standardisation of business practices and the transactions in the real estate sector. The proposed Bill provides for the establishment of the Real Estate Regulatory Authority (the Authority) for Regulation and promotion of real estate sector and to ensure sale of plot, apartment or building. as the case may be, in an efficient and transparent manner and to protect the interest of consumers in real estate sector and establish the Real Estate Appellate Tribunal to hear appeals from the decisions, directions or orders of the Authority."
>
> (emphasis supplied by this court)

30. For ready reference, the definition of "promoter" as occurring in section 2(zk) of The Real Estate (Regulation and Development) Act 2016 is reproduced as below;

> **2 (zk)** "promoter" means,--
>
> (i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part

thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or

(ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or

(iii) any development authority or any other public body in respect of allottees of—

(a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or

(b) plots owned by such authority or body or placed at their disposal by the Government,

for the purpose of selling all or some of the apartments or plots; or

(iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or

(v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale, or

(vi) such other person who constructs any building or apartment for sale to the general public.

Explanation. For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the person who sells apartments or plots are different persons, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder,

The expression "real estate project" is defined under Section 2(zn) of the Act which reads as under:

> **2 (zn)** "real estate project" means:
>
> "the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartments, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto".

Therefore, the purpose of selling is *sine-qua-non* for a person to be a promoter within the meaning of the Real Estate (Regulation and Development) Act, 2016, but the respondent, admittedly, does not have the right to sell the property.

31. Section 105 of the Transfer of Property Act, 1882 defines 'lease' of immoveable property as a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.

32. The Transfer of Property Act, 1882 envisages five different modes for transferring a property but for the purpose of the present appeal we are only concerned with one of the modes i.e., "Sale" and the same is dealt with under section 54 of the Transfer of Property Act, 1882 which defines "sale" and a "contract for sale" as follows:"

> **"54. 'Sale' defined.**
>
> 'Sale' is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.
>
> Sale how made. Such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other immovable property of a value less than one hundred rupees, such transfer may be made either by a registered

> instrument or by delivery of the property. Delivery of tangible immovable property takes place when the person as he directs, in possession of the property.
>
> **Contract for sale.-**
>
> A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties. It does not, of itself, create any interest in or charge on such property."

33. Upon a bare perusal of clauses 4 and 7 of the lease deed dated 29.09.2023 it is apparent that the respondent has been given a right to undertake construction on the land forming subject matter of the lease and to sub-lease it to others and has only lease hold rights, thus, the lease deed is conditional in nature. For ready reference clauses 4 and 7 of the lease deed are reproduced as under:

> **धारा-4**
>
> यह कि द्वितीयपक्ष को लीज में शामिल भूमियों पर निर्माण कराकर उसे सब लीज पर दूसरे को देने का अधिकार होगा। द्वितीयपक्ष के द्वारा रखे गये सब लीज व साझेदार को दी गयी भूमि को प्रथमपक्ष द्वारा दी गयी लीज भूमि की समयावधि के अन्दर होगी। द्वितीयपक्ष द्वारा सब लीज पर दिये गये सब लीज ग्राही को द्वितीयपक्ष की शर्तों को मानने के लिए बाध्य होगा और विवाद की दशा में उभयपक्ष आपसी सहमति से विवाद का समाधान करेंगे।
>
> **धारा-7**
>
> यह कि द्वितीयपक्ष-प्रथमपक्ष को लीज प्रतिफल मु० 60,00,000 रूपये वार्षिक है। प्रथमपक्ष जिसकी अदायगी प्रत्येक छः माह पर मु. 30,00,000 रूपये 1 वर्ष में या दो किस्तो में अदा कर सकता है। यदि द्वितीयपक्ष द्वारा लगातार लीज प्रतिफल की तीन किस्तें अदा नहीं की जाती हैं तो या अनुबन्ध लीज स्वतः शून्य हो जायेगी।

The relevant clauses of the lease deed particularly the above quoted clauses make it abundantly clear that the element of sale is lacking in the transaction and all that the respondent/lessee has been given under the terms of the lease-deed, is a mere right to create sub-leases of the land involved in the principal lease.

34. The lease deed does not speak about the right to sell but clauses 4 and

7 envisage the right to sub-lease the property. In view of the above the developer herein cannot be a promoter within the meaning of section 2 (zk) of the Real Estate (Regulation and Development) Act 2016.

35. Upon a careful examination of the provisions of the Act this Court finds that under Section 2 (zk) of the Real Estate (Regulation and Development) Act, 2016, the status of a 'promoter' is not determined by mere possession or leasehold interest in land, but by the active role of development and sale of units in a real estate project. A lessee, who does not sell units to prospective allottees, does not fall within the ambit of 'promoter'. Further, as per Section 2 (zn), a 'real estate project' necessarily contemplates development for the purpose of sale. In absence of any sale component, the activity does not constitute a real estate project, and consequently, the provisions relating to registration under Section 3 are not attracted.

36. Section 2(zn) defines a "real estate project" as development of land into plots or apartments for the purpose of selling the same to allottees. Thus, the element of "sale" is indispensable for bringing any activity within the ambit of the Act.

37. A conjoint reading of the aforesaid provisions yields the following mandatory conditions: (a) there must be development or construction activity and (b) such activity must be undertaken for the purpose of sale to allottees. Therefore, unless both conditions co-exist, a person cannot be classified as a "promoter" under the Act and is not required to apply for registration under the Act and the Authority is not supposed to grant or refuse registration to such a person.

38. A lessee, thus, holds only a restricted right of possession and enjoyment in accordance with the terms of the lease, without acquiring absolute ownership or any inherent obligation to undertake development. Mere possession, in the absence of any legally enforceable right to sell the property, does not fulfil the statutory requirements of a "promoter" under the Real Estate (Regulation and Development) Act, 2016.

39. In the case of ***"District Mining Officer vs. Tata Iron & Steel Co." (2001) 7 SCC 358*** Hon'ble Supreme Court held as under:-

> "A statute has to be construed according to the intent of them that make it and the duty of the court is to act upon the true intention of the legislature. If a statutory provision is open to more than one interpretation, the court has to choose that interpretation which represents the true intention of the legislature. The function of the courts is only to expound and not to legislate. The process of construction combines both literal and purposive approaches. In other words, the legislative intention i.e. the true or legal meaning of an enactment is derived by considering the meaning of the words used in the enactment in the light of any discernible purpose or object which comprehends the mischief and its remedy to which the enactment is directed. It is also a cardinal principle of construction that external aids are brought in by widening the concept of context as including not only other enacting provisions of the same statute, but is preamble, the exiting state of law, other statutes in pari materia and the mischief which the statute was intended to remedy."

40. It is a settled principle of law that where the language of a statutory provision is clear and unambiguous, it must be presumed that the legislature has consciously and deliberately employed such words to give effect to the object of the Act. This principle is encapsulated in the legal maxim *A Verbis Legis Non Est Recedendum*, meaning thereby that no departure can be made from the plain words of the law. Accordingly, the Court is bound to proceed on the basis that the legislature intended what it has expressly stated, and the statute must be interpreted without doing violence to its language. This position has been affirmed by the Hon'ble Supreme Court in ***Hardeep Singh vs. State of Punjab and Others, (2014) 3 SCC 92***.

41. Similar view has been taken by Hon'ble Supreme Court in the matter of ***M/s Newtech Promoters and Developers vs. State of U.P. (2021) 18 SCC 1*** wherein the court has held as under: -

> "It is well established principle of interpretation of law that the court should read the section in literal sense and cannot rewrite it to suit its convenience, nor does any canon of construction permits the court to read the section in such a manner as to render it to some extent otiose."

42. In view of the consensus between the parties, the controversy in the present appeal stands confined solely to the determination of the question as to whether a real estate project can be granted registration by the Real Estate Regulatory Authority under Section 5 of the Real Estate (Regulation and Development) Act, 2016, on a land held on lease for a period of 29 years and 11 months, in light of the provisions contained in Section 4(2)(l)(A) of the Real Estate (Regulation and Development) Act, 2016. Accordingly, the remaining substantial questions, namely Questions Nos. 1 and 2, do not survive for consideration in the present case. The Court, therefore, adjudicates only the aforesaid third substantial question for the purpose of disposal of the instant appeal.

43. The third question of law formulated by this Court is as to whether a real estate project can be developed and registered with Real Estate Regulatory Authority under Section 5 of the Act of 2016 on the land taken on lease for a period of 29 years and 11 months in the teeth of the provisions of section 4 (2) (l) (A) of the Act of 2016.

44. Section 4 of the Act, 2016 deals with an application for registration of real estate projects making it mandatory for every promoter to make an application to the Authority for registration of the real estate project and enumerates certain documents to be enclosed along with the application. Section 4 (2) (l) (A) of the Act, 2016 makes it mandatory for a promoter to make a declaration supported by an affidavit stating that he has a legal title to the land on which the development is proposed along with legally valid documents with authentication of such title if such land is owned by another person.

45. The term "title" is a comprehensive concept signifying lawful ownership backed by enforceable rights. It is the cornerstone of property related laws, determining the legitimacy of claims and the entitlement to possession and enjoyment of property. In legal parlance, the term "title" refers to the lawful basis of ownership or the bundle of rights by which a person asserts and enjoys dominion over property. It is not merely physical possession, but the legal right to possess, use, enjoy, and dispose of property. Title embodies both ownership rights and the legitimacy of such rights, recognized and enforceable in law.

46. It has been vehemently argued by Sri Sudeep Seth learned Senior Advocate appearing for the Respondent that Section 4 (2) (l) (A) of the Act, 2016 also makes room for someone who himself does not have the title, by providing for an authentication of title if such land is owned by another person and it is grossly misconceived on the part of the Authority to allege that the respondent/promoter suffers from lack of title for the purposes of the Real Estate (Regulation and Development) Act, 2016.

47. However, this Court is of the considered opinion that since the Respondent does not possess the legal authority or right under the terms of the lease-deed, to sell the plot, apartment, or building, as the case may be, the project does not fall within the ambit of the Real Estate (Regulation and Development) Act, 2016. The ability to offer units for sale is a foundational element for attracting the applicability of the Real Estate (Regulation and Development) Act, 2016, as the statutory scheme primarily governs 'real estate projects' undertaken for the purpose of sale to allottees.

48. In the absence of such a right, the Respondent cannot be brought within the definition of a "promoter" under the Act, as the essential condition of developing or marketing real estate for sale remains unfulfilled. Consequently, the provisions relating to mandatory registration, particularly under Section 5 of the Act, are not attracted in the present case.

49. Therefore, it necessarily follows that the Respondent is neither obligated to seek registration nor it can be compelled to obtain registration under the Real Estate (Regulation and Development) Act, 2016, the legislative intent being to regulate only those projects which are intended for sale to prospective allottees.

50. The substantial question of law is answered accordingly.

51. Consequently, the appeal is **disposed of** in the light of the observations made here-in-above .

52. The appellant/U.P. Real Estate Regulatory Authority, therefore is, under no obligation to provide registration number, Login ID and Password etc. to the respondent herein pursuant to its application dated

02.02.2025. The Uttar Pradesh Real Estate Regulatory Authority is expected to withdraw the communication vide Form-D containing the prohibitory and restrictive clauses against the Respondent with respect to the project in question.

53. No order as to costs.

(Syed Qamar Hasan Rizvi,J.)

May 8, 2026
Virendra