BENCH NO. 1
Sl. No. 31,32,33

UTTAR PRADESH REAL ESTATE APPELLATE TRIBUNAL
AT LUCKNOW

1. Appeal No. 425 of 2025

Suresh Kumar Rajora ……. Appellant

Vs.

Jitendra Kumar Magala Promoter ……. Respondent
Mangala Niket

With

2. Appeal No. 426 of 2025

Mohan Das ……. Appellant

Vs.

Jitendra Kumar Magala Promoter ……. Respondent
Mangala Niket

With

3. Appeal No. 427 of 2025

Manish Kumar ……. Appellant

Vs.

Jitendra Kumar Magala Promoter ……. Respondent
Mangala Niket

Hon'ble Mr. Justice Suneet Kumar, Chairman
Hon'ble Mr. Rameshwar Singh, Administrative Member.

1. Heard learned counsel for the parties and perused the record with the assistance of learned counsels for the parties.

2. The present appeals (three in number) are being heard together on the consent of the learned counsel for the parties, as the appeals arise from a common judgment and order dated 18.07.2025.

3. The facts of appeal no. 425/2025, (Suresh Kumar Rajora Vs. Jitendra Kumar Magala Promoter Mangala Niket), is being referred as the lead case for the sake of convenience.

4. The appellant allottee by the instant appeal is raising challenge to the order dated 18.07.2025, passed by Real Estate Regulatory Authority, at Lucknow (for short, 'Regulatory Authority',) in Complaint No. LKO118/03/106643/2023, whereby, the complaint of the appellant for refund and interest on the deposit came to be rejected on the ground that the complaint has been filed against Mangala Niket, whereas, the payment was made to Prerna Construction Pvt Ltd.

5. The learned Regulatory Authority was of the opinion that it is not clear as to whether the deposit came to be made to the respondent promoter or to the company. The appellant by the appeal seeks refund of his deposited amount and interest thereon, since the project was inordinately delayed.

6. On specific query, learned counsel for the appellant submits that the unit (flat) No. 514, 5th floor, came to be allotted to the appellant on 10.09.2012, the possession of the unit was to be handed over within 36 months, plus grace period, of 90 days i.e. on or before 30.06.2014. Since the project was inordinately delayed, aggrieved, appellant instituted the complaint under Section 31 of RERA Act 2016, seeking possession of the unit along with delay interest thereon against the respondent Sri Jitendra Kumar Mangala and not the company.

7. It is informed that during pendency of the complaint, amendment was sought altering the relief, seeking refund of his deposit along with interest thereon. Learned Regulatory Authority in the impugned order had taken notice that appellant is seeking refund of his deposit and interest, however, complaint came to be dismissed on technical ground that the respondent impleaded in the complaint was Sri. Jitendra Kumar Mangala as promoter, whereas, admittedly, the amount/money came to be deposited by the appellant with Prerna Construction Pvt. Ltd., a company registered, under the Company Act 2013.

8. Learned counsel for the respondent has filed objections and at the outset submits that appellant is not at default, inadvertently while registering the project with U.P. RERA under Section 4 of RERA Act 2016, inadvertently, the name of the Director i.e. Jitendra Kumar Mangala came to be wrongly shown as promoter, whereas, promoter of the project is Prerna Construction Pvt Ltd. It is further submitted that several applications were filed with U.P.

RERA to correct the mistake, however, the application till date has not been decided. In other words, while registering the complaint, the registered/recorded promoter with U.P. RERA would become party to the complaint.

9. In the objections to the memo of appeal the respondent promoter has categorically stated that Sri Jitendra Kumar Mangala is one of the directors of Prerna Construction Pvt Ltd., which is the promoter company and undertakes to abide and comply with all the obligations towards the allottees under the RERA Act 2016.

10. In this backdrop, it is submitted that the complaint is required to be pursued against Prerna Construction Pvt Ltd. and not against the Director. Learned counsel for the appellant submits that appellant would have no objection, in the event, the matter is remanded to the Regulatory Authority to decide complaint afresh, after impleading Prerna Construction Pvt Ltd. as respondent promoter.

11. Learned counsel for the respondent has no objection. In view thereof, the **appeal is disposed of** by passing the following orders:

(i) The impugned order dated 18.07.2025, passed by Regulatory Authority, in Complaint No. LKO118/03/106643/2023, Complaint No. 2. LKO118/08/108619/2023 and Complaint No. 3. LKO118/03/106575/ 2023, is set aside and quashed.

(ii) The aforenoted complaints are restored to its original file and number. The parties to the complaint, including, the appellant-complainants, shall make an appropriate application impleading Prerna Construction Pvt Ltd., as respondent promoter.

(iii) The Regulatory Authority shall make an endeavour, to decide the complaint expeditiously, provided there is no other impediment.

(iv) Registry to supply copy of this order to U.P. RERA for compliance.

(v) No order as to cost.

Dated: 18.05.2026 **(Rameshwar Singh)** **(Suneet Kumar)**
Nikita…/-