

MADHYA PRADESH REAL ESTATE
APPELLATE TRIBUNAL AT BHOPAL

Appeal No. A-46/2025
Institution Date : 03/09/2025

Before

Hon’ble Justice Shri B.K. Dwivedi, Chairperson
Hon’ble Shri P.C. Gupta , Member (Judicial)

Waves City Social Cultural Welfare Society,
404, A-14, Future Residency, Patel Nagar,
Raisen Road, Bhopal (MP)-462022
Cell Phone No.- 7389933755 : Appellant

Versus

- 1. M/s. LG Builders C/o Partner-L.N. Malviya,
T-10, Third Floor, Above Vishal Mega Mart,
Press Complex, Maharana Pratap Nagar,
Bhopal (MP)-462011
Cell Phone No. 9977828711 : Respondent No.1.
- 2. The Real Estate Regulatory Authority,
Near Board Office, Bhopal : Respondent No.2.

Counsel for the parties

For the Appellant : Shri Tejasvi, Authorised Representative
For the Respondent No. 1.: Adv. Sambhav Sogani
For the Respondent No. 2 : None

ORDER

(Delivered on 17/07/2026)

Per , Justice, B.K. Dwivedi,

This Appeal under Section 44 of the Real Estate (Regulation and Development), Act 2016 (for short hereinafter will be referred as 'the Act') has been preferred against the impugned order (letter) No. 2024/III-C/M-13/F-922/345 Bhopal dated 21/02/2025 and order dated 05/03/2025 in case no. N-BPL-23-0139 whereby, Real Estate Regulatory Authority (for short hereinafter will be referred as, 'Authority') has declined to issue any directions to the

Respondent No. 1 on the ground that Appellant has remedy before consumer forum or competent court.

02. Appellant is a group of individuals and Respondent no. 1 is promoter.

03. Brief facts of the case are that the Appellants had submitted an online complaint no. N-BPL-23-0139 to the Authority complaining about the Waves City Colony developed in Khasra Nos. 94,95,96,96,97,98 and 99, Patwari Halka No. 55 at Village Neelbar, Development Block Phanda, Bhopal mentioning various points for providing possession after completion of development work. An application was submitted by the Appellant on 23/10/2023 to the Authority that Respondent No. 1 is not developing approved residential colony and doing various criminal activities, illegally changing land use and making unnecessary changes/amendments and banning entry and prayed for appointment of commission to supervise work and for providing possession to the allottees including making demarcation of plots after development works. Respondent No. 1 refuted the allegations by filing written statements. An unreadable copy of completion certificate was also filed. Allegations against Appellants are that they have blackmailed. Applicant/Appellants society filed affidavit refuting the allegations raised by Respondent No. 1. Appellant Society along with affidavit also submitted inspection report dated 29/10/2023 with photographs in which irregularities of builder relating to development work and not providing physical possession/plots were mentioned. After inquiry, the Authority imposed a fine of Rs. 05.00 lakh on the builder by its order dated 20/03/2024 along with a ban on buying and selling of the plots. Aforesaid order of imposing penalty was accepted by the Respondent No. 1 and the penalty imposed by the Authority. Rs.05.00 lakh was deposited by Respondent No. 1 in the Government Treasury.

04. Appellants Society through its application dated 10/09/2024 requested for an action against under Section 36,37 and 38 of the Act. Same request was made in application filed by the Appellant society on 06/11/2024.

05. By impugned order A-3 (05/03/2025) Authority rejected the prayer on the ground that project of the Respondent No. 1 is not registered with Respondent No.2 therefore, for non-completion of development work no directions can be given to Respondent No. 1. Only remedy available to the Appellant is approaching consumer forum or competent court and on this ground application no. N-BPL-23-0139 of the Appellants as dismissed. Same order was communicated vide letter dated 21/02/2025 (A-7) both these communication and order is under challenge before this Tribunal by this appeal.

06. Authorised Representative for the Appellant submits that impugned order and communication are not in accordance with the provision of Act and Real Estate (Regulation and Development) Rules 2017 (for short hereinafter will be referred as 'Rules'). Once a complaint case as registered against the Respondent No. 1 and on finding that development work has not been completed, provisions has been infringed and therefore under Section 59 of the Act penalty of Rs. 05.00 lakh as imposed on the Respondent No. 1 and the same has been complied with. Now taking a U-turn application under Section 31 filed by the Appellants could not have been rejected on the ground that project is not registered with the Authority and *doctrine of res judicata* will come into play.

07. Referring Section 2(zg) (vi) learned representative of the appellant's further submits that Appellants come within definition of person as group or as defined in the aforesaid section. Association of persons or a body of individuals whether incorporated or not comes under definition of person and registration is not required. Therefore, appellants have

locus to file complaint and appeal on these miscellaneous grounds. Authorised Representative for the Appellants prayed for allowing appeal and setting aside the impugned order and communication which is under challenge in the appeal.

08. Ld. counsel for the Respondent No. 1 is sticking to the ground taking in their reply submits that Appellants have no locus to file this appeal as they are not registered as society. He further submits that project is complete and completion certificate has been filed. Since project has been completed before the Act come into force and completion certificate has been filed therefore, provisions of the Act are not applicable. Appellant could not prove by cogent evidence that development work has not been in accordance with the approved layout plan. In such circumstances, the Authority has not committed any error in dismissing the application filed by the Appellants and communicating the decision accordingly to the Appellant, therefore, prays for dismissing the appeal as devoid of any substance.

09. Heard and considered the rival submissions raised at bar and perused the record.

10. Also Heard on IA No. 4 filed by the Appellant for taking additional documents on record. Respondent No. 1 has opposed the prayer. Keeping in view that documents are relevant and have bearing on the case this IA No. 4 is allowed and documents are taken on record.

11. As far as objection with regard to *locus standi* of the Appellants is concerned, it is appropriate to go through Section 2 (zg) (vi) of the Act where person has been defined is read as under:-

Section 2

"Person" includes:-

(i) x x x x x x

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(vi) an association of persons or a body of individuals whether incorporated or not;

12. From perusal of the aforesaid provision, it is apparent that Association of persons or body of individual whether incorporated or not can approach Authority as they come under the term 'person'. It is also to be kept in view that earlier Authority has taken up the complaint filed by the Appellants and a fine of Rs. 05.00 lakh has been imposed on the Respondent No. 1 which has already been complied with. Therefore, in considered view of this Tribunal, this objection of *locus standi* raised by the Respondent No. 1 is not sustainable hence, rejected.

13. As far as objection with regard to completion of project is concerned, no doubt, completion certificate has been filed by the Respondent no. 1 before the Authority but undoubtedly the same has been heavily challenged and that point is still not finally adjudicated. This Tribunal cannot be oblivious of the fact that earlier Authority taken up grievance of the Appellants and finding substance in it regarding no development or not developing project in accordance with Rules and fine of Rs. 5.00 lakh has been imposed on Respondent no. 1.

14. Keeping in view the aforesaid factual matrix, this Tribunal is of view that objection raised on behalf of the Respondent No. 1 that documents Annexure A-16 and A-20, inspection reports filed by the Appellants are on record wherein it is mentioned that development work in the project of Respondent No. 1 is incomplete. In view of arguments advanced on behalf of respondent no. 1 that provisions of the Act are not applicable on their project is also not sustainable.

15. In the light of aforesaid, this Tribunal is of the view that Appeal filed by the Appellants has substance and the objections on maintainability and other objection raised on behalf of the Respondent No. 1 are devoid of any substance. Ld. Authority has failed to appreciate the contentions raised on behalf of the Appellant in right perspective and committed

factual and legal error. Hence, the instant appeal is hereby allowed and the impugned order dated 21/02/2025 and communication dated 05/03/2025 are hereby set aside with the directions to the Authority that it will take up the case of the Appellant and after giving reasonable opportunity of hearing to all the concerned parties decide this matter afresh at earliest in accordance with provisions of the Act and Rules. Both parties are directed to appear before the Authority on 28/07/2026 at 11:00 am.

16. No order as to cost.

17. Copy of this order be provided to the parties free of cost.

18. Copy of this order be sent to the Secretary, RERA for information along with original record for necessary compliance.

19. After noting the result, record of this Tribunal be consigned to the Record Room.

Sd/-
(JUSTICE B.K. DWIVEDI)
CHAIRPERSON

Sd/-
(P.C. GUPTA)
MEMBER (J)

Date:17/07/2026

Place: Bhopal

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