MADHYA PRADESH REAL ESTATE APPELLATE TRIBUNAL AT BHOPAL

Appeal No. A-122/2025
Institution Date :25/04/2025

Before

Hon'ble Justice Shri B.K. Dwivedi, Chairperson
Hon'ble Shri P.C. Gupta, Member (Judicial)
Hon'ble Shri Ravindra Singh, Member (Administrative)

Girija Infrastructures,
Through Partner Mr. Rohit Malhotra,
Email id: rohit.1993@gmail.com
Phone no.7799882845,
Address:-E-4/6, Arera Colony
Bhopal MP : Appellant

Versus

Madhya Pradesh Real Estate Regulatory Authority,
Through its secretary,
RERA Bhawan, Arera Hills, Main road,
Bhopal Madhya Pradesh : Respondent

Counsel for the parties

For the Appellant : Advocate Aditya Pratap Upadhyay
For the Respondent : Advocate Enosh George Carlo

O R D E R

(Passed on- 02/09/2026)

Per , Justice, B.K. Dwivedi, Chairperson

This appeal filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 (For short hereinafter will be referred as 'Act, 2016') has been preferred against impugned order dated 25/08/2024 in registration reference no. 913941197140 by Real Estate Regulatory Authority (For short hereinafter will be referred as 'Authority') whereby the Authority has rejected application of the Appellant Girija Infrastructure, promoter of the project filed for registration of the aforesaid project on following grounds:-

(i) The conveyance deed issued in favour of the seller of the property i.e. Bhopal Smart City Development Corporation Limited was not produced. Further there was

no document on record to establish that Bhopal Smart City Development Corporation Limited has the authority and title over the land in question to transfer it on free hold basis and therefore the partner of the Appellant firm i.e. M/s Mahakaushal Sugar and Power Industries Ltd did not get full/complete ownership over the land in question i.e. plot No. 83 or any part thereof on the basis of sale deed dated 20.06.2022. Consequentially it could not be established that the Appellant has title over the land in question.

(ii). The application for registration was dated 22.12.2023 and the coloniser license was issued on 05.07.2024 which is after the date of application. Therefore on the date of submitting the application, the Appellant did not have a valid license.

(iii) It is mandatory to upload the relevant documents on the portal for the purpose of providing information to the general public. However in spite of being noticed, the Appellant did not upload affidavit, Nazul NOC, draft agreement, amended development plan, on the portal.

(iv) AG 8 Ventures Ltd had transferred an amount of Rs. 3,11,62,500/- from the account of the project named Akriti Business Arcade having RERA Registration No. P-BPL-17-1391 of AG 8 Ventures Ltd to M/s Mahakaushal Sugar and Power Industries Ltd, which is prohibited in terms of Section 4 of the Act. AG 8 Ventures Ltd had illegally transferred the amount received from allottees of Akriti Business Arcade project to M/s Mahakaushal Sugar and Power Industries Ltd, which was used for purchasing the property in question. Therefore, in order to protect the interest of the allottees of Akriti Business Arcade project, no registration would be granted.

02. Relevant facts for disposal of this appeal in nutshell are that Bhopal Smart City Development Corporation Limited (For short hereinafter will be referred as 'BSCDCL') was incorporated under Indian Companies Act, 2013 for planning, designing, maintaining, coordinating and monitoring the Smart City Project in Bhopal. This corporation has equal share holding from Madhya Pradesh Urban Development Company Limited on behalf of Government of Madhya Pradesh and Bhopal Municipal Corporation.

2.1 In furtherance of the objective of Smart City Mission, BSCDCL introduced area-based development (ABD) project as a part of Smart City project for developing South TT Nagar located

in city of Bhopal. The project comprised of plots available for sale of residential as well as commercial use. One of the partners of the Appellant partnership firm M/s Mahakaushal Sugar and Power Industries Limited, being interested to make an investment in ABD City, Bhopal project, had submitted an application for allotment of a plot no. 83 admeasuring 1187.01 Sq. Mt. on free hold basis. On payment total sale consideration of Rs. 80,89,64,828/- sale deed dated 20/06/2022 (Annexure A-8) executed by BSCDCL in favour of M/s Mahakaushal Sugar and Power Industries Limited. For the purpose of development of the project on part of plot no. 83 area admeasuring 5595 Sq. Mt, the Appellant had submitted an application before the Town and Country Planning and Municipal Corporation seeking sanction of its development plan. After getting necessary approvals from the competent Authorities, Appellant submitted an application dated 22/12/2023 under Section 4 of the Act, 2016 before the Authority seeking registration of its project in the name of 'S.G. Square'.

2.2 Respondent No. 1, the Authority vide its notice dated 27/12/2023 called upon the Appellant to rectify shortcomings by uploading necessary documents on the online portal. Further Respondent Authority vide communication dated 02/01/2024 informed the Appellant that building plan submitted by the Appellant was not cleared, hence fee amount could not be determined. Subsequently, the Appellant uploaded all necessary documents as sought by the Respondent Authority. Again, Respondent Authority vide notice dated 08/04/2024 directed the Appellant to submit certain documents which were already submitted in compliance furtherance of notice dated 27/12/2023 and the Appellant appearing before the Respondent Authority personally cleared the confusion by submitting again all documents required by the Authority. Further vide communication dated 21/05/2024 it was informed by the

Appellant that there were certain discrepancies in the documents submitted by the Appellant in compliance of earlier notice dated 08/04/2024 and thus directed to appear before the Respondent Authority and for providing clarification. The Appellant by marking personal presence before the Authority provide all the information/clarification sought by the Respondent. To the surprise of the Appellant, a communication was made on 24/04/2024 from the Authority pointing out several shortcomings and mentioning that despite several opportunities the same have not been rectified. On 06/07/2024 a parawise reply/response to the shortcomings pointed out by the Respondent Authorities was submitted with all relevant documents along with clarification. Again on 23/07/2024 Respondent stated that no document has been submitted to prove title of BSCDCL on the project land for transferring it on free hold basis. On this Appellant produced before the Authority, orders passed by Government of Madhya Pradesh dated 23/05/2017 and 09/05/2017 whereby directions were issued that land located in North and South T.T. Nagar admeasuring 342 acres falling under the domain of department Urban Development and Housing of Government of Madhya Pradesh was being transferred to BSCDCL for development under the Smart City Scheme, Bhopal for the sustainable development. But Respondent Authority was not satisfied that Appellant firm got full/complete ownership where the land in question i.e. plot no. 83. Deficiency regarding colonizers license and other affidavits was also pointed out and direction was given to Appellant to submit the same by 31/07/2024. Respondent Authority has also raised another issue regarding transaction between Appellant firm and company AG 8 Ventures Ltd. with regard to transfer of Rs. 03,11,62,500/- from the account of AG 8 Ventures Ltd. to Appellant firm, stating that it is prohibited transaction in terms of Section 4 of the Act, 2016.

2.3 In response to notice dated 23/04/2024 Appellant submitted parawise reply and clarification dated 30/07/2024 it was specifically mentioned in reply that plot no. 83 on which the proposed project of the Appellant was to be constructed is situated in project namely (ABD Parcel Phase –II) which has already RERA registration no. P-BPL-21-2824 wherein the BSCDCL is promoter. It was also specifically pointed out that BSCDCL is an instrumentality of the Government of Madhya Pradesh and was granted right to transfer the land for development of city of Bhopal under the Smart City Scheme. In support of above, order dated 06/09/2018 of Urban Development and Housing department of Madhya Pradesh was submitted. Appellant specifically and vehemently refuted allegation regarding questioned transfer of money from AG8 Ventures to the Appellant firm. An affidavit required under Section 4(2)(l)(D) of the Act,2016, was already submitted in form-B providing all the required information, but even after all the clarifications given, Respondent dismissed application of the Appellant for registration of its project, which gave rise to this appeal.

03. Ld. counsel for the Appellant submits that application for getting registration for its project 'SG Square' on plot no. 83 on 22/12/2023 has been filed all the queries raised by the Respondent Authority from time to time through various notices as mentioned hereinabove were issued and the same were complied with even after that application for registration has been rejected vide impugned order dated 23/08/2024 which is bad in law as it defies the very purpose for which the Act 2016 was enacted. Ld. counsel further submits that ground no. (ii) taken for rejection of the application is frivolous and baseless as colonizer license issued on 05/07/2024 was submitted in due course during pendency of the registration application dated 22/12/2023. Respondent/Authority has kept pending application of registration of its project filed by the Appellant; therefore, application could have been rejected

even after supplying colonizer license issued on 05/07/2024 of relevant documents were uploaded on the portal. Physical copy of affidavit, Nazul NOC, Draft agreement, amended development plan was also provided, therefore, this objection which has been taken as ground no. (iii) for rejection of registration application of the Appellant is also baseless.

3.1 Ld. counsel further submits that Appellant company has not entered into any illegal transactions of Rs. 03,11,625,500/- with AG8 Ventures Ltd. This objection raised by the Authority is also beyond jurisdiction of Authority. Affidavit required under Section 4(2)(l)(D) of the Act of 2016 in form 'B' was already submitted by the Appellant providing all the required information. Financial record of Appellant company clearly revealed that company has substantial financial capacity to purchase the land in question. If AG8 Ventures Ltd. has committed any alleged violation of the provisions of the Act of 2016, Appellant company cannot be punished for the same. Impugned order has been passed mechanically and by going beyond the jurisdiction provided to the Authority under Act of 2016. The Authority should have accepted or rejected the application for registration filed by the Appellant within 30 days from the date of application but Respondent Authority did not follow the mandate and kept pending application of the Appellant for considerably a long period and thereafter rejected it whimsically on grounds which are not legally tenable. To buttress his submissions Ld. counsel for the Appellant has been placed reliance on the order passed by the Hon'ble High Court of Allahabad **Writ-C No.-16616 of 2024 Larsen & Toubro Ltd. Vs State of UP and others dated 01/10/2024.**

3.2 Ld. counsel further submits that application of the petitioner for registration of its project was kept pending much beyond the period of 30 days, hence, as per Section 5(2) of the Act of 2016, project of the petitioner is deemed to have been registered. On these miscellaneous grounds, Ld. counsel for the

Appellant prays for allowing appeal and setting aside the impugned order dated 23/08/2024 and granting registration to the Appellant's project as per mandate of the Act of 2016 directing the Respondent to register the project 'Surendra Square' and provide a login id and password to the promoter.

04. *Per contra* , Ld. counsel for the Respondent supporting the impugned order vehemently controverted the contentions advanced on behalf of the Appellant. Ld. counsel further submits that Section 5(2) of the Act of 2016 can be pressed into service only when the application filed for getting registration of a project is complete in all respects on the very date of its filing. In the instant case, several deficiencies were found in the application, which were pointed out to the Appellant by various notices issued time to time. Undisputedly coloniser's license was issued in favour of the Appellant on 05/07/2024 much after the date 22/12/2023 when application for registration was submitted, therefore, contentions raised on behalf of the Appellant that deemed registration should be presumed after 30 days from the date of filing of registration application is baseless and has no force, needs to be rejected. Ld. counsel further submits that very object of inserting electronic discloser was to secure transparency and enable prospective allottees to make informed decision before investing in the project. Such statutory requirements could not be substituted by submitting hard copies of documents before the Authority moreover the alleged technical glitch in uploading relevant documents on the portal of the Respondent/Authority is not supported by material documents hence, cannot be relied upon as it is based on after thought story.

4.1 Ld. counsel further submits that Respondent Authority has to examine illegal transactions, which in the instant case taken place between the AG8 Ventures Ltd. and the Appellant company in respect of Rs. 03,11,625,500/-. Appellants' explanation in respect of transaction is not satisfactory that amount was received

in liquidation of loan amount lent out to AG8 Ventures Ltd. No documents in support of the aforesaid explanation has been filed hence, the same is not tenable and rightly rejected by the Authority. Ld. counsel further submits that no conveyance deed has been executed in favour of the BSCDCL, therefore, it has no Authority to transfer ownership over the project land in favour of the Appellant. Mere allotment orders passed by the Urban Development and Housing Department, Govt. of MP cannot fulfill and replace provisions of Transfer of Property Act,1882. No satisfactory explanation was offered in this behalf hence, on all the four grounds given for rejection of the registration application filed on behalf of the Appellant are completely in the domain and jurisdiction of the Authority for protecting interest of the allottees. No fault can be found with or no explanation can be taken to the impugned order. Instant appeal filed on behalf of the Appellant is baseless, having no substance and therefore, liable to be dismissed.

05. Heard and considered the rival submissions raised by the counsel for the parties and perused the record.

06. Four grounds as mentioned in para 7 of the impugned order have been taken by the Respondent/Authority for rejection of application filed by the Appellant for registration of its project ‘SG Square’.

07. First ground taken for rejection of the application is with regard to authority of BSCDCL to transfer project land plot no. 83 in favor of the Appellant company by sale deed dated 20/06/2022. It is not in dispute that Respondent/Authority has been given power to verify legal title to the land on which development is proposed by further ascertaining that the project land is free from all encumbrances. This authority has been given by provisions of Section 4(2) (l) (A) and (B) of the Act of 2016, which are reproduced hereinbelow for ready reference.

Section 4 (1)

(2)

(I) a declaration, supported by an affidavit, which shall be signed by the promoter or any person authorised by the promoter, stating,-

(A) 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;

(B) that the land is free from all encumbrances, or as the case may be details of the encumbrances on such land including any rights, title, interest or name of any party in or over such land along with details;

08. Aforesaid provisions, though not specifically mentioned in the order have been examined by Hon'ble High Court of MP in order dated 23/09/2024 passed in **Writ Petition No. 19852 of 2023 'Shri Ji Builders and Developers Partnership Firm Vs Madhya Pradesh Real Estate,** wherein it has been held that title documents and linked registries may be examined by the Authority to satisfy itself regarding clear title of the petitioner/Appellant over the project land. In **Writ Appeal No. 2857 of 2024 order dated 16/06/2026 in MP. Real Estate Regulatory Authority Bhopal Vs Shri Ji Builders and Developers** wherein order passed in aforesaid WP was challenged**.** High Court of MP in paragraph 15 and 16 of the order has held that Section 4 of the Act of 2016 requires that promoter seeking registration shall submit application to the Authority along with documents relating to ownership title of land, land use permission, financial and structural capacity and other documents as prescribed under Rule 3 and 4 of the Rules of 2017 framed under Act of 2016. It has been further observed that statute i.e. 2016 contemplates regulatory regime with inbuilt safeguards and opportunities of compliance. In paragraph 16 it has been specifically held that *Act does not confer upon by the Authority,*

jurisdiction of safeguard to adjudicate disputed questions of title, proof of ownership, or to undertake detailed forensic investigation into historical transactions.

09. It is apt and very much beneficial to reproduced at verbatim para 16 of the order, which is reproduced as under:-

> 16. This Court is of the firm view that the scheme of RERA is both regulatory and facilitative, not purely adjudicatory. The RERA Act contemplates that the Authority performs a regulatory function that is, it verifies prima facie compliance of statutory requirements and ensures transparency. The Act does not confer upon the Authority the jurisdiction of a Civil Court to adjudicate disputed questions of title, proof of ownership, or to undertake detailed forensic investigation into historical transactions. The distinction is critical: the regulatory function entails verification that documents are produced and prima facie show compliance; the adjudicatory function involves a Court adjudicating disputed title after hearing evidence and applying law. If serious disputes arise regarding title, such disputes must be adjudicated by competent forums Civil Courts, Revenue Courts, or specialized tribunals in accordance with law. The RERA Authority cannot undertake a 'collateral adjudication' of title disputes. To do so would transform it from a regulatory authority into a Civil Court, contrary to the statute's scheme.

10. |From perusal of the aforesaid provisions of the Hon'ble High Court, it is quite clear that the Authority cannot undertake a collateral adjudication of title disputes. If it is allowed, it will transform a regulatory authority into a Civil Court, which is contrary to the scheme of the statute. In the instant case, project land undisputedly belongs to the government of MP and the same has been transferred to BSCDCL for getting all the intensive development of the area. It is also not in dispute that land has been mutated in the name of BSCDCL by government authorities responsible for mutation and further government of MP has not challenged the transaction, which it was actually authorised. In the aforesaid circumstances could have been kept in mind by the Authority while raising objection no. (i) with regard to rejection of the registration application of the Appellant, but Ld. Authority has failed in rightly interpreting its power to verify chain of title

documents, which has resulted in passing of legally untenable order.

11. It is also of utmost importance to mention here that undisputedly (plot no. 83) which is part of project land RERA registered project ABD land parcel phase-2 having registration no. P-BPL-21-2824, whose promoter is BSCDCL. The Authority would have certainly verified title deeds of BSCDCL and after finding them satisfactory, registration was granted to ABD land parcel phase-2, wherein the project land of 'SG Square' being developed on plot no. 83 is situated. Therefore, ownership and authority of BSCDCL for transferring the project land whereon 'SG Square' is being developed/constructed could not have been questioned.

12. Objection no. (ii) relates to the non-production of colonizer license with regard to application of registration on 22/12/2023. It is not in dispute that registration application was rightly not dismissed with a period of 30 days as queries were raised time and again by issuing notices to the Appellant, and the same were complied with. When during pendency of registration application, Appellant secured colonizer license issued on 05/07/2024 and the same was submitted before the Authority before passing of impugned order. In such circumstances, this ground could not have been taken by Respondent/Authority that Appellant was not having colonizer license on the date of filing of application for registration, therefore, subsequent submission of aforesaid license will not cure the defect. Had the application for the Appellant been rejected before submission of colonizer license this ground no.(ii) taken for registration could have sanctity but it is not the case and therefore, after filing of colonizer license during pendency of the application, application for registration could not have been rejected on this ground, hence, we are of the considered view that this ground taken is not valid and legally tenable.

13. Ground no. (iii) given in the impugned order for rejection of the application for registration is that Appellant did not upload affidavit, Nazul NOC, Draft agreement, amended development plan on the portal. It has been pointed out by counsel for the Appellant during course of hearing that since web portal of authority for uploading legal documents was not responding therefore, hard copies of the same had been provided but Respondent/Authority without verifying and adjudicating about the same rejected the registration application on the ground of non-submission of affidavit, encumbrance certificate, draft agreement and Nazul NOC which was not permissible. Respondent could not rebut the fact that aforesaid documents in physical form were not submitted during pendency of the registration application. It is also not proved that under which Rules, Regulations and Provisions of the Act of 2016 only soft copy of the documents uploaded on the portal will be considered. Therefore, in such circumstances, after submission of physical copy of the documents, their not consideration could not be said to be fulfilling the aims and objective of the Act of 2016 for which it had been inducted. Hence, this ground can also not be upheld.

14. Fourth and last ground raised for rejection of application for registration of the Appellant is with regard to money transaction of Rs. 03,11,62,500/- from AG8 ventures Ltd. in the account of Appellant company. No documents with regard to investigation of the aforesaid alleged transaction has been referred in the impugned order which could have been given authority to the Respondent/Authority for raising aforesaid ground but in absence of such investigation or inquiry report, the ground raised for rejection of application is completely illegal. Section 4(2) (l) (D) only requires of the Appellant for an affidavit in form ‘B’ providing all the requirements that already been submitted. Nothing more is required to be enquired of the Appellant with

regard to financial transactions. For the sake of arguments if it is presumed that AG8 Ventures Ltd. which is a separate entity has committed any financial irregularity and violation of any provisions of the Act of 2016 or Rules 2017, Appellant company which is the separate entity could not be penalized for the wrongdoing of AG8 Ventures Ltd. By no stretch of imagination, this ground could have been raised by the Authority which has no legal basis.

15. Main ground for rejection of application of registration filed on behalf of the Appellant is Authority of BSCDCL for transferring the project land to the Appellant which if requires any further inquiry could be completed only if the case is remitted back to the Authority/Respondent for further deliberating or the same.

16. Therefore, by setting aside the impugned order, case is remanded back to the Respondent/Authority for reconsidering and adjudicating application of the Appellant afresh in accordance with law.

17. Accordingly, this appeal is disposed of by remanding back case to the Respondent/Authority with the aforesaid directions.

18. Appellant will appear before the Respondent i.e. Authority on 17/09/2026 at 11:00 a.m.

19. The Authority is directed to disposed of the application as early as possible preferably within 30 days from the receipt of order of this Tribunal after affording reasonable opportunity of hearing to the parties concerned.

20. Copy of this order be sent to the Authority along with the record for information, compliance and necessary action.

21. Copy of the order be supplied to the parties free of cost.

22. After noting the result case be consigned to the Record Room.

23. No order as to cost.

Sd/-	Sd/-	Sd/-
(JUSTICEB.K. DWIVEDI)	(P.C. GUPTA)	(RAVINDRA SINGH)
CHAIRPERSON	MEMBER (J)	MEMBER (A)

Date: 02/09/2026
Place: Bhopal

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