MADHYA PRADESH REAL ESTATE APPELLATE TRIBUNAL AT BHOPAL

Appeal No. A-67/2025
Institution Date : 07/05/2025

Before

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

Executive Engineer,
MP Housing & Infrastructure
Development Board, Division-2,
Hall No.3, Metro Walk Building
E-5, Arera Colony, Bhopal (MP)
Pin-462016 : Appellant

Versus

The Secretary,
Real Estate Regulatory Authority,
Bhopal (MP), RERA Bhavan,
Arera Hills, Main Road No.1,
Bhopal-462011 : Respondent

Counsel for the parties

For the Appellant	:	Advocate Yogendra Sharma
For the Respondent	:	Advocate Aryan Gupta

O R D E R

(passed on- 02/09/2026)

Per , Justice, B.K. Dwivedi, Chairperson

Subject matter of this appeal filed u/s 44(1) of the Real Estate (Regulation and Development) Act 2016 (for short, hereinafter will be referred as, 'the Act of 2016') is impugned order dated 12/03/2025 in registration application reference no. 428813878253 passed by MP Real Estate Regulatory Authority (for short, hereinafter will be referred as, 'the Authority') whereby application filed by the Appellant for registration of project 'business park' situated

on plot no. 53 area 7237.47 square meter Smart City, South TT Nagar, in village Kotra Sultanabad, Tehsil Huzur, District Bhopal has been rejected mainly on the ground that Appellant has not uploaded quarterly reports and completion certificates on portal of the project in respect of various schemes launched earlier as mentioned in para 3 (i) (ii) (iii) (iv) (v) (vi) (vii) (viii) and (ix) of the impugned order not uploaded on e-portal amended schedule (g) and (e) and amended agreement for sale, mentioned wrong number of dedicated bank account and on the project land Bhopal Smart City Development Corporation Ltd. was not having any title and therefore, Appellant, who is purchaser from the Smart City could not acquire title over that land and plot no. 53 was not part of project got registered by Smart City with RERA.

02. Facts necessary for disposal of this appeal in nutshell are that MP Housing and Infrastructure Development Board is a statutory body constituted under the Madhya Pradesh Grih Nirman Evam Adhosanrachna Vikas Mandal Adhiniyam, 1972 with the objective of providing housing on a 'no profit, no loss' basis. As per Section 44 of the said Act Housing Board is duty bound to plan and coordinate all housing activity in the State, and to ensure expeditious and efficient implementation of housing schemes in the State. Bhopal Smart City Development Corporation Limited, a special purposes vehicle for the implementation of Smart City Mission of Bhopal was allotted government land by the government with authority to transfer the land for execution of the project. Development plan was approved by Town and Country Planning to execute Smart City Mission in Bhopal on Plot No. 53, admeasuring 7237.47 square meter. Bhopal Smart City Development Corporation Ltd. after receiving payment of Rs. 33,43,85,588/- executed a registered sale deed (Annexure A-2) on 31/03/2023 in favour of MP Housing and Infrastructure Development Board. Bhopal

Smart City Development Corporation Ltd. In the sale deed has categorically been mentioned that seller has full proprietary rights over the project land situated in South TT Nagar and it has also been mentioned that said land was originally transferred by Govt. of MP and Government has authorized Bhopal Smart City Development Ltd. to sell lease or transfer the said land. Copy of the relevant Khasra is annexed as Annexure A3 showing Bhopal Smart City Development Corporation Ltd. as an owner of the land. On 24/06/2024 Housing Board obtained permission from Municipal Corporation Bhopal (Annexure-A4). On 25/10/2024, the Executive Engineer MP Housing Board and Infrastructure Development Board, Division-2 Bhopal applied for registration of project styled as 'Business Park' situated on plot no. 53, Smart City, South TT Nagar, Bhopal. Housing Board has submitted therewith all relevant document for compliance of Section 4 of the Act of 2016.

2.1 In compliance of Section 4(2)(l)(B) submitted an affidavit that land belong to housing board and free from any charge. On 07/01/2025 Authority (RERA) issued notice Annexure A-6 pointed out 17 deficiencies in the application and the said deficiencies were rectified on 20/01/2025 vide first letter no. 361 (Annexure A-7) thereafter Authority issued another letter Annexure A8 on 20/01/2025 raising a new point relating to plot no. 53 not being included in the prior registration taken by Smart City and the same was duly replied. On 21/01/2025 Authority issued another notice (Annexure A-8) seeking certain information and the same was duly replied on 03/03/2025 (Annexure A-11). Even after compliance of all requirements as raised by the Authority by impugned order dated 12/03/2025 application for registration of the aforesaid project was rejected on the ground as mentioned hereinabove which gave rise to this appeal.

03. Ld. counsel for the Appellant assailing impugned order submits that all the requirements for registration of project were complied with even after that by a order which is perverse and contrary to law, application for registration of the project has been rejected. Housing Board has acquired title to the land through registered sale deed dated 31/03/2023 (Annexure A-2) and its name has been entered in Municipal Corporation records and in paying property tax (Annexure A-2). Housing Board has acquired title through legally registered documents. The Authority is not being empowered to reject the registered sale deed executed in favour of the MP Housing Board after paying amount of Rs. 33,43,85,588/- which falls within exclusive jurisdiction of the Civil Court. The Authority has erred in not considering the affidavit submitted by the Housing Board declaring its title to the land Rule 3(1) (d) of the Real Estate (Regulation and Development), Rules 2017 (for short, hereinafter referred as, 'the Rules') require and authenticated copy of the legal title deed or other relevant documents reflecting the promoter's title or legal rights to the land on which the project is proposed or a no objection certificate from the Sub Divisional Officer (Revenue). These documents were filed but neither considered nor discussed by the Authority while rejecting application for registration. Land under consideration is recorded in the name of Smart City Corporation. A copy of Khasra Annexure A3 was enclosed with application. Entries have been made by order of the revenue courts which cannot be questioned by Authority. Entries in Khasra are always considered true insofar as the title is concerned, unless proven contrary.

3.1. Ld. counsel further submitted that land was transferred vide order dated 07/03/2019 Annexure A13. Land was transferred to Bhopal Smart City Corporation vide the order of Nazul Adhikari and Tahsildar Annexure A14. They

can only be challenged in appeal under the Land Revenue Code or by a civil court. Authority has gone beyond its jurisdiction in rejecting the application for registration based on personal knowledge and a hyper-technical approach without any legal basis or supported by any document.

3.2. Ld. counsel further submits that no objection was ever raised during registration proceedings by the Authority regarding title of Bhopal Smart City Corporation Ltd. and no opportunity of hearing on this point was given to the Appellant. Principle of natural justice have been ignored. The Authority in any of the notices seeking clarification from the Appellant has not raised any objection with regard to the title of Bhopal Smart City Corporation Ltd. project land. Personal knowledge has been used to draw baseless conclusion, depriving the Appellant from opportunity of hearing to submit its defense during hearing before the Authority causing a grave prejudice to the Appellant.

3.3 To bolster this submission has placed reliance on the judgment by Hon'ble High Court of MP, in **MP Real Estate Regulatory Authority Versus Shankar Ji Maharaj Trust**, **Neutral Citation No. 2026:Mphc-Jbp:46969 Dated 01 July, 2026**. He has further placed reliance upon the order passed by this Tribunal in **appeal no. 107/2025, Vikram Singh Chaudhary Vs MP RERA.** On these miscellaneous contentions, Ld. counsel for the Appellant prays for allowing appeal by setting aside the impugned order and directing Authority to reconsider the project of the Appellant for giving registration number.

04. *Per contra,* Ld. counsel for the Respondent supporting impugned order vehemently contends that Bhopal Smart City Development Corporation Ltd., who has sold project land to MP Housing Infrastructure Development Corporation Ltd. was not having any legal title over the project land and therefore even by sale deed dated

31/03/2023 no. MP059702023A11686366 (Annexure A-2) no title could be said to have been acquired by the purchaser. Ld. counsel further submits Khasra entries do not provide any title over the land therefore Annexure A3 relied upon by the Appellant for the purpose of showing title of Bhopal Smart City Development Corporation Ltd. over the land does not help Appellant in any way.

4.1 Ld. counsel further submits that order dated 27/03/2023 which has been filed along with written submission and relied upon by the Appellant Annexure WA-3 UDH/9/0002/2023/18-2 only authorizes allotment of plot no. 53 to Appellant on payment of Rs. 33,43,85,588/- as per Collector guidelines without calling tender. It does not authorize for sale of the aforesaid land. Ld. counsel further inviting attention of this Tribunal toward order no. F-10-08/2017/18-2 dated 07/03/2019 Annexure A-13 issued by Urban Development and Housing Department Govt. of MP submits that aforesaid department had to transfer land in favour of Smart City Development Corporation Ltd. whereon no stamp duty was payable but no conveyance deed has been executed in favour of Smart City Development Corporation Ltd. hence it does not acquire any title over the project land which has been sold by it to the Appellant by aforementioned sale deed. Once Smart City Development Corporation Ltd. was not having any legal title over the project land certainly it could not be transferred in favour of the Appellant. Ld. counsel further submits that Authority before registering any project as per Section 4 of the Act of 2016 is entitled to check chain of title documents of the promoter for protecting interest of the allottees. On these miscellaneous contentions, Ld. counsel urges this Tribunal to dismiss the appeal as having no force.

05. Heard and considered the rival submission at the bar, perused the record.

06. Section 4 of the Act of 2016 provides for application for registration of real estate projects. Every promoter shall file an application to the Authority for registration of real estate project in such form, manner, within such time and accompanied by such fee as may be prescribed and also enclosing documents as mentioned in clause A of sub-Section 2 of Section 4 of the Act of 2016. If all the requirements are fulfilled, the Authority is empowered for registration of the project under Section 5 of the Act of 2016. Most relevant provision is Section 4 (2) (l) (A) which authorizes the Authority to verify legal title of the promoter over the project land on which he proposes to develop project. It is apt to extract the aforesaid provision at verbatim which runs as under:-

> Section 4 (1)
>
> (2)
>
> (l) 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;

07. From bare perusal of the aforesaid provision, it is apparent that Authority has right to verify legal title of the developer of the land over which he proposes to develop the project. **Hon'ble High Court of MP in Writ Petition No. 19852 of 2023 (Shri Ji Builders and Developers Partnership Firm Vs MP Real Estate) dated 23/09/2024** has held that Authority is duty bound to check title of parties so that buyers may not be put under unnecessary litigation

later on. Linked registry may be seen by Authority to satisfy itself regarding clear title of the petitioner over the land in question. If Authority checking the title and other documents for its satisfaction, same does not mean that Authority acting beyond jurisdiction and acting as Civil Court.

08. Thus, arguments advanced on behalf of Appellant that by asking chain documents or searching title documents of the predecessor of the Appellant is beyond the domain of the Authority cannot find approval of this Tribunal.

09. This Tribunal is not oblivious of the fact that neither the Authority nor this Tribunal can act as a Civil Court for adjudicating propriety rights over the project land but Section 4 (2) (l) (A) of the Act of 2016 which has been interpreted by Hon'ble High Court of MP in **(Shri ji Builders Vs MP RERA) (supra)** expands scope of verification of title deeds for registering a project.

10. Ld. counsel for the Appellant has taken specific plea that notices (Annexure A-6) dated 07/01/2025, notice/letter (Annexure A-8) 20/01/2025 and letter/notice (Annexure A-10) dated 10/02/2025 were issued by the Authority seeking several information, which were duly complied with and deficiencies were rectified by reply letter no. 361 dated 20/01/2025 (Annexure A-7), reply dated 21/01/2025 (Annexure A-9) and reply dated 03/03/2025 (Annexure A-11). In none of the notices issued by the Authority for compliance, title of Bhopal Smart City Development Corporation Ltd. was never questioned and no information was ever sought by the Authority in this regard. No opportunity was given to the Appellant for showing title of Bhopal Smart City Development Corporation Ltd. but Authority has used its personal knowledge to draw baseless conclusion in this regard. In the impugned order a specific ground for rejection of the registration application taken is that Bhopal Smart City Development Corporation Ltd. was

not having title over the disputed land, therefore, Appellant could not acquire any title over the project land. Since this finding has been recorded without affording opportunity of hearing to the Appellant which is infringement of principles of natural justice.

11. From perusal of the notices annexed in the record as mentioned hereinabove query with regard to title of Bhopal Smart City Development Corporation Ltd. over the project land has never been raised and therefore, Appellant at any point of time did not get opportunity to prove the same. It is cardinal principle of natural justice, *'no one can be condemned unheard'* which has been violated in the instant case by not offering any opportunity to put forth side of the Appellant before Authority with regard to approval of title of the Bhopal Smart City Development Corporation Ltd. over the project land. In such circumstances, objection raised on behalf of the Appellant during course of arguments is found having substance.

12. As far as other objections taken for rejecting the application of registration of project by Authority that Appellant has not complied with certain requirements as mentioned in para 3 (i) (ii) (iii) (iv) (v) (vi) (vii) (viii) and (ix) of the impugned order in previous projects is not accordance with law as nowhere in Act 2016 or Rules 2017 framed under the Act it has been provided that if in previous projects Applicant/Appellant has not fulfilled certain requirements then it cannot be taken as a ground for rejection of the application for registration of his subsequent projects.

13. In the aforesaid circumstances, we are of the considered view that impugned order passed by the Authority rejecting the registration application of the Appellant is faulty and cannot be upheld hence, impugned order is hereby set aside and case is remitted back to the Authority for reconsidering registration application of the Appellant by

affording reasonable opportunity of hearing on the point of title of Bhopal Smart City Development Corporation Ltd. over the project land which has been transferred by way of sale deed to the Appellant. It is further clarified that grounds for rejection of Appellant's application taken in sub clause (i) (ii) (iii) (iv) (v) (vi) (vii) (viii) and (ix) of para 3 have already been set aside and ground shown in para 3 (x) to 3(xiii) have also found to be complied with hence, these grounds will not be reagitated by the Authority only as mentioned hereinabove. Only ground for rejection of the registration application contained in para 3 (xiv) will be reconsidered by affording reasonable opportunity of hearing to the Appellant. Keeping in view provisions as contained in Section 4 of the Act of 2016 along with the fact that project land is government land and government has not challenged title and authority of Bhopal Smart City Development Corporation Ltd. to transfer it to any subsequent purchaser rather mutation in name of Bhopal Smart City Development Corporation Ltd. over the project land has been facilitated by the government itself who has been previous owner of project land.

14. Authority is directed to decide registration case of the Appellant in time bound manner specifically within period of 30 days from the receipt of copy of order passed by this Tribunal after affording reasonable opportunity of hearing to the parties concerned.

15. The Appellant is directed to appear before the Authority on 16/09/2026 at 11:00 am.

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

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

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

19. 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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