



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2025

R

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 34471 OF 2024 (GM-RES)

BETWEEN:

AMIT GARG
S/O SRI ASHOK KUMAR GARG
AGED ABOUT 47 YEARS
RESIDING AT:
H-173, SJR PALAZZA
CITY, DODDAKANNALI,
BENGALURU – 560 035.

...PETITIONER

(BY SRI ADITYA CHATTERJEE, ADVOCATE A/W
SMT.NIKITHA SURABHI AND
SMT.AKHILA BALAJI, ADVOCATES)

AND:

1. KARNATAKA REAL ESTATE REGULATORY AUTHORITY
2ND FLOOR, SILVER JUBILEE BLOCK,
3RD CROSS ROAD, CSI COMPOUND,
MISSION ROAD, SAMPANGI RAMA NAGARA,
BENGALURU, KARNATAKA – 560 027
REPRESENTED BY ITS CHAIRPERSON.
2. SJR PRIME CORPORATION PVT. LTD.,
HAVING ITS REGISTERED ADDRESS AT:
'THE HUB', NO. 8/2, SARJAPUR ROAD,
AMBALIPURA VILLAGE, VARTHUR HOBLI
BENGALURU – 560 102.





ALSO AT:

NO. 1, SJR PRIMUS, 7TH FLOOR,
KORAMANGALA INDUSTRIAL LAYOUT,
7TH BLOCK, KORAMANGALA
BENGALURU – 560 095
REPRESENTED BY ITS
AUTHORIZED REPRESENTATIVE.

...RESPONDENTS

(BY SRI GOWTHAMDEV C.ULLAL, ADVOCATE FOR R-1
SRI J.P.DARSHAN, ADVOCATE FOR R-2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED EMAIL ORDER DATED 23 SEPTEMBER 2024 PASSED BY THE RESPONDENT NO.1 IN COMPLAINT BEARING NO.TMP/240919/0005744 PRODUCED AT ANNEXURE-A AND CONSEQUENTLY DIRECT THE LD. RESPONDENT NO.1 TO RE-OPEN AND HEAR THE COMPLAINT NO. TMP/240919/0005744.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioner is before this Court calling in question an order communicated by way of electronic mail on 23.09.2024, rejecting the complaint filed by the petitioner not by the Real Estate Regulatory Authority ('the RERA' for short), but by the Registry of RERA.



2. Heard Shri Aditya Chatterjee along with Smt. Nikitha Surabhi and Shri Akhila Balaji, learned counsels appearing for the petitioner; Shri Gowtham Dev C. Ullal, learned counsel appearing for respondent No.1 and Shri J.P. Darshan, learned counsel appearing for respondent No.2.

3. Facts in brief germane are as follows:

The petitioner is the owner of an apartment in a 17th floor apartment complex called Petronas block. Respondent No.2 is said to have approached the petitioner in 2013, for the sale of the apartment in the project, all on a brochure that was printed. Respondent No.2 then represents to the petitioner that the apartment owners / allottees project would be developed in accordance with the sanction plan. Several disputes arose between the petitioner and the developer, which laid the petitioner to knock at the doors of the RERA. The Registry of RERA at the time of scrutiny of the petition, communicates an electronic mail to the petitioner that the complaint preferred before the RERA is not maintainable and therefore, it has rejected it. This is what has driven the petitioner to this Court in the subject petition.



4. The learned counsel appearing for the petitioner submits that the office has no authority or jurisdiction to terminate a proceedings. Even if it is not maintainable, at best, it can be posted before the RERA Authority. He would further submit that several of such cases where the Registry of RERA is terminating the proceedings on account of maintainability.

5. Shri Gowtham Dev C. Ullal, learned counsel appearing for the RERA would admit the fact that the impugned order is a communication by way of electronic mail to the petitioner, terminating the petition, as not maintainable.

6. The afore-narrated facts are not in dispute. The issue lies in a narrow compass. What has driven the petitioner is terminating of his complaint against the developer by the following electronic mail:

"Dear Sir/Madam,

Complaint has been Rejected for complaint Number TMP/240919/0005744

Reason Perused the facts of complaint and reliefs. Complainant has sought for "Permanent injunction restraining the respondent from constructing in violation of the Original Sanction Plan & demolish structures in violation of it & declaring the revised sanction plan as illegal in respect of respondent project".

The relief sought by the complainant does not come under the jurisdiction of this Authority. Hence, this



complaint (TMP/240919/0005744) is not registered as not maintainable."

The Registry scrutinizes the complaint and opines that the complaint does not come within the jurisdiction of the Authority. Hence, the complaint is not registered, as it is not maintainable.

7. This power with the Registry is unavailable, as the complaint ought to be placed before the RERA Authority and the members of RERA will have to decide on the maintainability of the complaint. If the Registry of RERA is terminating the proceedings in the manner that it has done now, it would be an act without jurisdiction. Therefore, this a matter which is to be viewed seriously by the members of the RERA. The powers of adjudication even with regard to maintainability is not conferred upon the Registry by the statute. That being so, the electronic mail that is communicated, terminating the proceedings, is on the face of it illegal.

8. It is apposite to refer to the judgment of the Apex Court in the case of **P. SURENDRAN V. STATE** reported in **(2019) 9 SCC 154**, wherein the Apex Court holds that the functions of the



Registry of the is purely administrative and cannot decide upon the maintainability of the petition, which is a judicial function. It reads as follows:

“... ..

9. The nature of judicial function is well settled under our legal system. Judicial function is the duty to act judicially, which invests with that character. The distinguishing factor which separates administrative and judicial function is the duty and authority to act judicially. Judicial function may thus be defined as the process of considering the proposal, opposition and then arriving at a decision upon the same on consideration of facts and circumstances according to the rules of reason and justice. A Constitution Bench of five Judges in *Jaswant Sugar Mills Ltd. v. Lakshmi Chand* [*Jaswant Sugar Mills Ltd. v. Lakshmi Chand*, AIR 1963 SC 677] , formulated the following criteria to ascertain whether a decision or an act is judicial function or not, in the following manner (AIR p. 682, para 13)

“(1) it is in substance a determination upon investigation of a question by the application of objective standards to facts found in the light of pre-existing legal rules;

(2) it declares rights or imposes upon parties obligations affecting their civil rights; and

(3) that the investigation is subject to certain procedural attributes contemplating an opportunity of presenting its case to a party, ascertainment of facts by means of evidence if a dispute be on questions of fact, and if the dispute be on question of law on the presentation of legal argument, and a decision resulting in the disposal of the matter on findings based upon those questions of law and fact.”

10. The act of numbering a petition is purely administrative. The objections taken by the Madras High Court Registry on the aspect of maintainability



requires judicial application of mind by utilising appropriate judicial standard. Moreover, the wordings of Section 18-A of the SC/ST Act itself indicate at application of judicial mind. In this context, we accept the statement of the Attorney General, that the determination in this case is a judicial function and the High Court Registry could not have rejected the numbering.

11. Therefore, we hold that the High Court Registry could not have exercised such judicial power to answer the maintainability of the petition, when the same was in the realm of the Court. As the power of judicial function cannot be delegated to the Registry, we cannot sustain the order, rejecting the numbering/registration of the petition, by the Madras High Court Registry. Accordingly, the Madras High Court Registry is directed to number the petition and place it before an appropriate Bench.”

(Emphasis supplied)

In that light issue being answered by the Apex Court in the afore-quoted judgment, the petition deserves to succeed.

9. For the aforesaid reasons, the following:

ORDER

- i) Writ petition is allowed;
- ii) Impugned e-mail order dated 23.09.2024 passed by respondent No.1 stands quashed.
- iii) The complaint registered before the RERA is restored to file.



- iv) It is open to the RERA to hear the petitioner and then pass orders on maintainability of the complaint or otherwise.

Ordered accordingly.

Sd/-
(M.NAGAPRASANNA)
JUDGE

JY
List No.: 1 Sl No.: 11
CT:MJ