

**Before the Bench of Hon'ble Inquiry Commissioner, Mr. Sanjaya Kumar Singh, RERA,  
Bihar**

**Authorised Representative of RERA** **.....Complainant**

**M/s Mahadev Constech& Services Pvt. Ltd. ....Respondent**

**Present:** For Complainant: Mr. Abhinay Priyadarshi, Advocate  
For Respondent: Mr. Sharad Shekhar, Advocate

## ORDER

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registration as mandated under the Real Estate (Regulation and Development) Act, 2016.

4. The Learned Legal representative of the Authority submits that, pursuant to the inspection conducted by a team of the Authority, the present proceedings have been initiated. The inspection team had reported that the promoter is developing and marketing the project in violation of Section 3 of the Real Estate (Regulation and Development) Act, 2016 (“the Act”), without registration of the project with the Authority as mandated under the Act.
5. The respondent has filed a reply stating that the project was earlier applied for registration on 21.08.2020; however, the said application was rejected due to non-submission of requisite documents, including the sanctioned map, as mandated under the provisions of the Real Estate (Regulation and Development) Act, 2016 (“the Act”) and the Rules framed thereunder. It is further submitted by the respondent that thereafter the entire project was developed through self-funding, and in support thereof, the respondent has placed on record the Completion Certificate and the statement of the bank account.
6. Learned counsel for the respondent reiterates that the project has been constructed out of own expenses of the respondent company. He, however, could not submit the details of the expenditure and sources of expenditure incurred in construction of the said project. He further submits that since Section 3 of the RERA Ac, 2016 provides only for action against him when he advertises the project without registration and he could not be given permission to sell the project as the same has been done out of his own expenses without imposing any penalty against the same.
7. Learned counsel for the complainant submits that despite several opportunities given to the respondent to furnish the detail whether the impugned project has been constructed on the basis of self-

funding or not, the same could not be submitted by the respondent concerned and thus, they have failed to prove that the project in question has been constructed out of own expenses of the said respondent.

8. Perused the record and submissions.
9. (a) Section 2(b) of the Real Estate (Regulation and Development) Act, 2016 provided the definition of “advertisement” which reads as follows:

*“advertisement” means any document described or issued as an advertisement through any medium and includes any notice, circular, or other documents or publicity in any form informing persons about a real estate project, or offering for sale of a plot, buildings, or apartments or inviting persons to purchase in any manner such plot, building, or apartment, or to make advances or deposits for such purposes.*

*(b) Further, Section 3(1) of the RERA Act mandates that no promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment, or building as the case may be in any real estate project or part thereof, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act.*

10. A bare perusal of the relevant statutory provisions, read with the material placed on record, clearly establishes that the promoter has violated the mandatory requirements of the Real Estate (Regulation and Development) Act, 2016. The respondent’s assertion that the project was completed through self-funding remains unsubstantiated, as no authentic documentary evidence—such as a Chartered Accountant’s certificate, bank’s certificate/statement etc. has been produced to demonstrate that the entire amount utilised for the construction of the project in question was sourced from the

respondent-company's own funds, or that any loan availed was in the name of the company/respondent and the same was not raised through booking/sale consideration from project units. Furthermore, the completion certificate placed on record does not disclose any plan case number or the name of the project for which it was issued. Notably, no occupancy certificate has been produced in support of the said completion certificate. These deficiencies materially contradict the respondent's plea that the project has been completed by self-funding.

11. Additionally, the very fact that an application for registration of the said project was earlier filed by the respondent-promoter clearly establishes their intention to develop the project in accordance with the provisions of the Act. In the absence of cogent evidence to the contrary, it is evident that the project has not been developed through self-funding but through other sources, including funds invited from prospective allottees, without obtaining mandatory registration. Such conduct is in clear contravention of Section 3 of the Act.
12. Accordingly, the conduct of the respondent-promoter constitutes a clear statutory violation and squarely attracts the penal provisions prescribed under the Act.
13. The conduct of the Respondent not only constitutes a violation of the aforesaid provisions of the Act but also strikes at the very object and purpose for which the Real Estate (Regulation and Development) Act, 2016 was enacted. The sale of units of project to the general public without obtaining mandatory registration certificate of the said project reflects a deliberate attempt to circumvent the statutory regulatory framework, derive unlawful economic benefit, and defeat the principles of transparency and accountability sought to be ensured under the Act. Such conduct undermines the authority of the Regulatory Authority and causes serious prejudice to the interests of the allottees.

14. Accordingly, the cumulative facts and circumstances on record conclusively establishes the violation of Section 3 of the Act in respect of the project in question committed by the respondent. The contravention thus stands duly established. Hence, keeping in view the objectives of the Act to regulate and promote the real estate sector in a transparent, fair, and accountable manner, the Authority deems it appropriate to impose a penalty of ₹10,80,000/- (Rupees Ten Lakh Eighty Thousand only), being equivalent to 5% of the estimated development cost of the impugned project, as disclosed by the Respondent in its earlier application submitted for registration of the project.
15. Accordingly, the above said penalty is hereby imposed upon the Respondent–Promoter for the established violation of the Act. The Respondent is further directed to strictly desist from any such statutory violations in future and to ensure registration of the project forthwith by completing all requisite formalities in accordance with the provisions of the Act and the Rules framed thereunder.
16. The respondent-promoter is hereby directed to deposit the aforementioned penalty amount of ₹10,80,000/- (Rupees Ten Lakh Eighty Thousand only) within a period of sixty (60) days from the date of issuance of this order. Failure to comply with this direction shall attract further action in accordance with the provisions of Section 59(2) of the Real Estate (Regulation and Development) Act, 2016.
17. The Authority further directs the office to issue a letter to the I.G. Registration, Bihar for issuing necessary instructions to all the concerned DSRs / Sub-Registrars of Patna to impose a blanket ban on execution of sale deed of any unit (flat/shop/part thereof) pertaining to the said project “*Shiv Muni Parvati*” by the respondent company and its Directors.

- 18.** The Patna Municipal Corporation is directed to verify and ascertain the authenticity and validity of the Completion Certificate submitted by the respondent-promoter in respect of the project and to communicate its findings to RERA Bihar for any further necessary action required at this Authority's end.
- 19.** The Office is directed to take all necessary measures to ensure the compliance of the aforementioned directions.

With the above observations and directions, this matter is disposed of.

Sd/-  
(Sanjaya Kumar Singh)  
Inquiry Commissioner,  
RERA, Bihar