

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

Before the Bench of Mr. R.B. Sinha, Member

**Case No. SM/461/2020**

Authorized Representative of RERA.....Complainant

Vs

M/s Palavi Raj Construction Pvt. Ltd.....Respondent

**Project: Goa City**

Present: For Authority: Mr. Jainandra Kumar, Advocate

Ms. Ankita Bhushan, Advocate

For Respondent: Mr. Sanjay Singh, Advocate

**08/07/2021**

**PROCEEDING THROUGH VIDEO CONFERENCING**

Hearing taken up through video conferencing. Counsels of the Authority are present. Mr. Sanjay Singh, learned counsel of the respondent company is present.

Respondent counsel submits that as per the last direction, reply was to be filed by the respondent but no reply has been filed as the matter is pending before the Full Bench of RERA, Bihar under Section 3 of RERA Act, 2016 for which a notice was served for cancellation of the registration of the aforesaid project. He further submits that since the last date of hearing for the same was on 02/07/2021 and the outcome is awaited, in such circumstance the respondent has not filed any reply in the present case. He further prays to put the present proceeding on hold till the judgment comes out.

The Bench observed that the present case is related to the contravention of Section 3 of the Act and the proceeding is being conducted under Section 59 (1) of the Real Estate ( Regulation and Development) Act 2016 whereas the case before the full Bench is under section 5 (1) (b) for rejection of the application for registration of the Project. Therefore, there is no relation between two cases. The Bench also noted that the respondent has submitted their response twice i.e. on 18/03/2021 and 23/03/2021. It is further observed that on last date of hearing standing counsels of both the parties were directed to submit their final brief of arguments. The Bench further informed that a High Power Committee was constituted to look into the functioning of respondent company as the audited annual accounts of respondent company for the financial year 2019-2020 revealed that Rs 6, 88, 566.07 had been collected by the respondent company as of 31<sup>st</sup> March 2020 though none of their

projects were registered with the RERA, Bihar. The Committee had submitted its report recently, a copy of which was made available to the counsel of the Respondent company Adv Sharad Sekhar on the last date of hearing. The Counsel for respondent, Adv Sharad Shekhar had committed to give his response on the report of the committee by last tuesday but he has not furnished any response till date.

Respondent counsel submits that both the proceedings before the Full Bench as well as Single Bench are with respect to Section 3 of RERA Act, 2016. He further prays that since both the cases lies under the scope of Section 3 of RERA Act, 2016 and registration of the project, let the present proceeding be kept on hold till such time the Full Bench gives its Order. He further submits that so far the present case is concerned the Bench can pass whatever order the Bench deems fit.

The Bench held that both cases are different in nature. The present case is related to the Suo Moto notice under section 35 & 59 (1) of the RERA Act for contravention of Section 3 of the RERA Act whereas the case before the full bench was under section 5 (1) (b) of the RERA Act for rejection of the application for registration of the Project with the Authority. The present case is not concerned or related with Section 5 (1) (b) of the Act. The Bench therefore held that there is no need to keep the present proceedings on hold. Accordingly, the proceedings continued.

Counsel for the Authority submits that he has submitted his final brief of arguments and further submits that the CA Gourav Gunjan of the respondent company was directed to appear today as per the last direction but he has not appeared before the Bench despite issuance of notice. It is also observed that nobody has appeared on behalf of the auditors company i.e. Gupta Sachdeva & Co. On the request of Respondent counsel, the Bench directed counsel of the Authority to submit a copy of his final brief of arguments to the Respondent Counsel.

The Bench expressed displeasure over the conduct of the CA and his company as nobody appeared on their behalf even after issuing notice. It is further observed that their clarification was needed on the certificate issued by CA Gourav Gunjan on 17/03/2021 bearing UDIN: 20068385AAAAIJ3211 in respect of the amount of Rs. 6,13,88,519.07/- shown under advance from customers under the head of other loans and advances in the balance sheet notes as on 31/03/2020. It is further observed that in this certificate, the learned accountant has certified that Rs.

5,83,04,519.07/- is booked under the head “advance taken from land agreements” on the basis of supporting documents as provided by the Company. The Bench needs the clarification in respect of this certificate and the kind of supporting documents which were produced before him to justify “:Advance from Customers” amounting to Rs 6,13,88,519.07. The Bench also wishes to get the clarifications from the statutory auditors whether they examined the conformity of the respondent company (Palviraj Construction Pvt Ltd,), a company involved in the real estate sector, to the provisions of Real Estate ( Regulation and Development) Act 2016 while conducting the statutory audit of the Company for the financial year 2019-2020. The Bench further stated that it is not clear from this certificate as to how the company had taken “advance for land agreement” from customers to justify booking under the head “Advance from Customers” ( Under Other Loans & Advances head). The Bench directs CA: Mr. Gourav Gunjan to give a written clarification within seven days of issue of this order whether the aforesaid certificate was issued by him as well as whether the signature on the certificate is his signature.

The Bench again directs to issue fresh notices to Mr. Gourav Gunjan, Partner, Membership no. 068385 and CA Firm-Gupta Sachdeva & Co. to appear on the next date of hearing with clarification upon the issuance of the aforesaid certificate as well as details of the UDIN no. must be produced failing which the matter will be taken to Institute of Chartered Accountants of India (ICAI), New Delhi and its Disciplinary committee.

The Bench also directs the respondent company to submit its written brief, if any within two weeks.

**Put up on 27/07/2021 for hearing.**

**Sd/-**

**R.B. Sinha  
Member**