



**IN THE ODISHA REAL ESTATE APPELLATE TRIBUNAL
AT BHUBANESWAR**

OREAT Appeal No.21/2024
(Arising out of SMCC No.163 of 2021)

Shri T.Kiran Kumar. **...Appellant**
The Secretary, ORERA. **...Respondent**

-Versus-

For the appellant : Mr.A.K.Sahoo, Advocate
For the respondent : Mr. B.Nayak, Advocate

CORAM :

Hon'ble Shri Justice P.Patnaik, Chairperson
Shri S.K.Rajguru, Judicial Member
Dr. B.K.Das, Tech./Admn. Member

ORDER
6.3.2026

The appeal is taken up for final order.

2) Aggrieved over the order dated 22.12.2023 of the learned Odisha Real Estate Regulatory Authority in Suo Motu Complaint Case No.163 of 2021, the appellant who was the respondent no.2 therein has filed this appeal praying to set aside the said order with the observation that he is not liable to pay the penalty imposed on him in the order. The respondent of this appeal is the learned Regulatory Authority whose order has been challenged in this appeal.

3) Facts and circumstances leading to the filing of this appeal are as follows:-

On the complaint of Sri Kamala Kanta Das, Advocate Koraput containing allegation of sale of agricultural lands by real estate promoters at Manbar, Ginjriguda, Kumbha-I, Kumbha-II, Machhara, Sukriguda at high cost, by making sub-plots without converting the same to homestead and without approval of the competent authority, in collusion with registration department, together with the clipping of odia



daily 'The Samaj' dtd. 9.4.2021, the learned Regulatory Authority initiated Suo Motu Complaint Case No.163 of 2021 against the real estate promoter "Sri Venkat Sai Real Estate" for developing the plotting project "Sri Venkat Sai" at mouza Chhapar, Koraput without registering the same with the ORERA and thereby violating Sec. 3 of the Real Estate (Regulation & Development) Act, 2016.

Pursuant to the notice issued by the Regulatory Authority the respondent failed to appear on 25.11.2021, the date fixed for his appearance, and as the postal tracking report showed delivery of notice on the respondent on 2.11.2021, he was set ex parte. On the same day order was passed by the learned Regulatory Authority directing its Enforcement Officer to visit the project 'Sri Venkat Sai', at Chhapar, Koraput and to submit a report about its status and estimated cost, giving him liberty to take the assistance of Empanelled Engineer in this regard, if necessary. Accordingly, Sri U.C.Pani, the Enforcement Officer and Er. S.P.Bhol, the Empanelled Engineer of the Regulatory Authority submitted a report on 15.7.2022 stating that though they had paid a visit to mouza Chhapar, Koraput on 28.6.2022 but could not find any residential apartment project developed by the promoter there. On contact with Sri K.K.Das, Advocate over cell phone they ascertained that it was a plotted project developed near H.P. petrol pump, Koraput, but despite thorough search they could not locate the project. However, while searching for the project 'Sri Venkat Sai' the Enforcement Officer and the Empanelled Engineer met one Mr. Kiran Kumar in his office and from him they came to know that he had developed a plotted project at Ginjriguda, Koraput. On proceeding there they found a big residential project in the name 'SSR Layout' to have been developed on an approximate area of 7 acres with amenities like wide approach road and internal road, drainage system, water supply, parking area and



children's play area. The project had been developed in contravention of Sec. 3 of the Real Estate (Regulation & Development) Act, 2016.

On receiving the report dtd. 15.7.2022 from Sri U.C.Pani, the Enforcement Officer, the learned Regulatory Authority issued notice to Sri Kiran Kumar, SSR Layout and though he appeared through his counsel on 14.9.2022 and prayed for time to file show cause, but on the date fixed for the same i.e. 17.10.2022 defaulted in appearance and was accordingly set ex parte. The learned Regulatory Authority on the same day passed order directing the Enforcement Officer to visit the project "SSR Layout", Ginjurguda, Koraput and to submit a report on the status as well as estimated cost of the project giving him liberty to take the assistance of the Empanelled Engineer in this regard if necessary.

On 14.12.2022, the Advocate for Sri T.Kiran Kumar, SSR Layout filed show cause to the Sou motu complaint case together with a petition to set aside the order of setting him ex parte. The petition was allowed and the show cause was accepted.

In his show-cause respondent Sri T.Kiran Kumar claimed the proceeding initiated against him to be on the basis of false allegation and not maintainable as he was no way connected with the project 'SSR Layout'. He made it clear that, he neither developed the project nor was involved in its day to day affairs, nor did he ever hold any official post therein. Respondent Sri T.Kiran Kumar accordingly prayed for dismissal of the complaint.

On 24.11.2023 the report of Sri D.K.Satapathy the Enforcement Officer prepared on 23.10.2023 was received by the learned Regulatory Authority, but in this report the Enforcement Officer instead of reporting about the status and estimated cost of the project 'SSR Layout' revealed the same information as in the earlier report dtd. 15.7.2022 of Sri U.C. Pani. Contrary to the direction of the



learned Regulatory Authority, the Enforcement Officer visited mouza Chhapar and not finding any residential apartment in the name “Sri Venkat Sai” informed that there was no such project in Chhappar and that the complaint was frivolous and baseless. Enforcement Officer Sri Satapathy through claimed in his report dtd. 23.10.2023 to have visited two plotting scheme projects in the name “Savari Vihar” in Chhapar mouza and “Biswanath Nagar” in Gunjariguda mouza on 24.10.2023 and 25.10.2023 on the basis of information from local people and also to have submitted inspection report, but no such report is found to have been submitted in the present case. He has also not made it clear as to who had developed those two projects.

On 2.12.2023 the learned Regulatory Authority on perusal of the report of the Enforcement Officer found that the cost of the project ‘SSR Layout’ at Ginjriguda, Koraput had not been reported and accordingly directed the Enforcement Officer to submit the same. On 11.12.2023 the Enforcement Officer submitted the required report. The learned Regulatory Authority on perusal of the said report on 15.12.2023 passed the impugned order dtd. 22.12.2023 dismissing the Suo Motu Complaint Case ex parte against the respondent no.1 i.e. Shri Venkat Sai Real Estate, Chhapar, Koraput, but allowed it on contest against the respondent no.2 i.e. Shri T.Kiran Kumar, SSR Layout, Ginjriguda, Koraput with imposition of a penalty of Rs.10,00,000/- on him u/sec. 59 of the Act with a direction to pay the same, within a period of two months from the order, making it clear that in the event of failure to comply with the order, the same shall be enforced and penalty shall be realized as per law.

4) In the hearing of the appeal, the learned counsel for the appellant has submitted that the complaint of Shri Kamala Kanta Das, Advocate, Koraput and the report of Shri U.C.Pani, Enforcement Officer and Er. S.P.Bhol, Empanelled Engineer of ORERA are baseless



as there is no evidence like the statement of any local witness with regard to the appellant's involvement in the alleged development of the plotting project. It is further submitted that the learned Regulatory Authority has ignored the inspection report dtd. 23.10.2023 of Enforcement Officer Shri D.K.Satapathy which reveals that the complaint petition is frivolous and baseless. The learned counsel for the appellant has further pointed that the inspection report dtd. 15.7.2022 of Enforcement Officer Mr. U.C.Pani and Empanelled Engineer Er. S.P.Bhol is not supported by any documentary evidence showing Shri T.Kiran Kumar to have developed the plotted project 'SSR Layout' at Ginjriguda. It is further submitted that the report dtd. 11.12.2023 of the Enforcement Officer and the Empanelled Engineer about the cost of the project is not supported by any documentary evidence with regard to the rate per square feet and therefore the imposition of the penalty amount on the appellant is not in accordance with the Act. With the aforesaid submissions, the learned counsel for the appellant has termed the impugned order dtd. 22.12.2023 as unjust and arbitrary and has accordingly made the prayer as mentioned earlier in paragraph-2.

5) On the other hand, the learned counsel for the respondent-Regulatory Authority has submitted that, though the Enforcement Officer and the Empanelled Engineer on their visit to the site did not find any project as per the allegations in the complaint of Advocate Sri Kamala kanta Das, but they were made aware about the project 'SSR Layout' developed by the appellant and on their visit to the site of the said project they found it to have been developed without registration with the ORERA and accordingly determined the cost of the project to be Rs.38,41,99,200/-. Accordingly, the appellant has been penalized with an amount of Rs.10,00,000/- for violation of Sec. 3 of the Act. Further contending that the impugned order has been passed in rightful exercise of the learned Regulatory Authority, the learned



counsel for the respondent has termed the appeal as unwarranted and has prayed for its dismissal.

6) From the facts of the case as mentioned in detail in paragraph-3, it is seen that the petition dtd. 17.8.2021 of Advocate Sri Kamala Kanta Das, Koraput to the Collector, Koraput though reveals allegation of illegal development of plots from agricultural lands at places like Manbar, Ginjriguda, Kumbha-I, Kumbha-II, Machhara, Sukriguda and their sale by real estate promoters without conversion of those lands to homestead and in collusion of the registration department, but no specific promoter has been named to have developed any specific project therein.

The two inspection reports, one by Enforcement Officer, Sri U.C.Pani dtd. 15.7.2022 and the other one by Enforcement Officer, Sri D.K.Satapathy dtd. 23.10.2023 reveal that the alleged project 'Sri Venkat Sai' could not be traced out at mouza-Chhapar, Koraput despite extensive effort. It is not understood why the two Enforcement Officers during their respective visits searched for Apartment project in the name 'Sri Venkat Sai' when advocate Sri K.K.Das in his petition dtd. 17.8.2021 had alleged about only illegal plotted projects. It is also not understood as to why Enforcement Officer Sri D.K.Satapathy searched for "Sri Venkat Sai" project at Chhapar despite the direction of the learned Regulatory Authority vide order dtd. 17.10.2022 to visit the project 'SSR Layout' at Ginjriguda. As mentioned earlier, the learned Regulatory Authority having not found any material about the development of project 'Sri Venkat Sai' have ruled out the alleged violation of Sec. 3 of the Act and accordingly dismissed the complaint case against the respondent no.1.

As regards the respondent no.2 i.e. Sri T.Kiran Kumar, SSR Layout, Ginjriguda (present appellant), it is already mentioned that, Sri U.C.Pani, Enforcement Officer and Er. S.P.Bhol, Empanelled



Engineer during their search for the project 'Sri Venkat Sai' came to know from Mr. Kiran Kumar in his office at H.P. Petrol Pump, Koraput that he had developed the said plotted project at Ginjriguda, Koraput. On proceeding there they found a big residential project in the name 'SSR Layout' to have been developed on an approximate area of 7 acres with amenities like wide approach road and internal road, drainage system, water supply, parking area and children's play area. The project had been developed in contravention of Sec. 3 of the Real Estate (Regulation & Development) Act, 2016. The inspection report dtd. 23.10.2023 of Enforcement Officer Sri D.K.Satapathy though reveals about two unregistered plotted projects, one at Chhappar mouza in the name "Savari Vihar" and the other one in the name "Biswanath Nagar" at Ginjriguda mouza, but not about the "SSR Layout" project allegedly developed by the appellant Sri T.Kiran Kumar. Pursuant to the direction of the learned Regulatory Authority on 2.12.2022 Enforcement Office Sri U.C.Pani and Empanelled Engineer S.P.Bhol subsequently submitted their report on the cost of the project 'SSR Layout' estimating the same to be Rs.38,41,99,200/-. Copies of some photographs of the project have been filed by the Enforcement Officer together with his report dtd. 15.7.2022.

The appellant having denied his any involvement in the alleged development of "SSR Layout" project, it was incumbent upon the learned Regulatory Authority to establish him as the promoter of the project by producing either the R.O.R. or any deed of transfer showing his ownership over the project land or the development agreement together with irrevocable power of attorney (if someone else is the owner). Marketing evidence like advertisement in newspaper, brochures/pamphlets and hoardings at the project site and other conspicuous places in the concerned mouza inviting intending buyers to purchase the plots should also have been produced. The inspection



report dtd. 15.7.2022 of the Enforcement Officer does not show either booking of any plot by or its allotment/sale to any intending buyer. No document has been produced in support of the claim in the inspection report dtd. 15.7.2022 that the area of the project land is Ac.7.00. The report does not make it clear if the project has been developed on the basis of an approved lay out plan with specific number of plots. No site plan in proof of plotting has been produced. Though copies of some photographs showing approach road and internal road of the project, drainage system, water supply, parking area and children's play area have been filed the same nowhere disclose the name of the project and its promoter.

So in absence of the above mentioned materials it cannot be concluded only on the basis of the inspection report dtd. 15.7.2022 of the Enforcement Officer of the ORETA that Sri T.Kiran Kumar has developed a plotted project in the name "SSR Layout" at Ginjriguda without registering it with the ORETA.

As regards the cost of the project, the Enforcement Officer and the Empanelled Engineer have estimated the same to be Rs.38,41,99,200/- at the rate of 1800/- per square foot taking the project area to be Ac.7.00 (3,04,920 square feet) and deducting 91,476 square feet (30%) therefrom towards internal road and drainage system. It is not mentioned in the report dtd. 11.12.2023 as to from which source the area of the project was ascertained. It has been mentioned in the report that the rate of Rs.1800/- per square feet has been ascertained from the security guard. The joint report of the Enforcement Officer and the Empanelled Engineer with regard to the aforesaid facts being not based on authentic information, the estimated project cost is not acceptable.

7) It is notable that, in OREAT Appeal No.113 of 2024, wherein the appellant had disputed his status as the promoter of the



project in question, this tribunal vide order dtd.7.11.2025 had asked the learned Regulatory Authority to collect certain minimum documents while relying on the site inspection report of its Enforcement Officer and Empanelled Engineer regarding the promoter-ship of the project and its estimated cost. The present case also involves a dispute relating to promoter-ship and cost of the project. So in the light of the discussions made in para-6 of this order, we think it appropriate to direct the ORERA to rely on the following documents in future cases while acting on the Enforcement Officer's inspection report regarding promoter-ship of the project and its estimated cost:

Regarding Promotership :

- i) Copy of the R.O.R. issued by the competent authority/sale deed/ any other deed of transfer of ownership of the project land in favour of the alleged promoter, or
- ii) If the alleged promoter is not the owner of the project land and someone else is the owner of the land, then the copies of the development agreement executed by both and the irrevocable power of attorney executed by the owner in favour of the alleged promoter.
- iii) Copy of the letter of permission for lay-out of the project land or construction of building thereon by the Development Authority/Local Authority issued in favour of the alleged promoter, or
- iv) Advertisement in news paper/brochure/ pamphlet/photograph of hoarding showing the project name and location, promoter's details and his invitation to the intending buyers to buy plots/flats in the project.
- v) Copy of the plot/flat allotment letter issued by the alleged promoter in favour of the allottee/agreement to sell the plot or flat executed by the promoter and the allottee/money receipt issued to the allottee by the promoter mentioning therein the description of the allotted plot/flat. In case of sale of plot or flat, the relevant sale deed executed by the alleged promoter in favour of the buyer or any other contemporaneous document relating to such sale, or



- vi) Applications for electricity connection and water supply to the project by the alleged promoter to the concerned authorities.
- vii) Other evidence like photographs showing development works of the project by the alleged promoter.

Regarding Project Cost

- i) Copy of the sale deeds showing price of the plots/flats of different sizes in the project.
- ii) Opinion report of the competent revenue authority/govt. approved valuer regarding the land cost and construction cost of the project.

The learned Regulatory Authority shall obtain the above mentioned documents making them part of the record and rely upon the same as evidence in the complaint case while passing the final order.

8) In view of the discussions made in para-6 of this order, the impugned order dtd. 22.12.2023 of the learned Regulatory Authority in SMCC no.163 of 2021 is held to be not correct as per facts on record and law. The same is accordingly set aside. Resultantly, the appeal succeeds and is allowed on contest against the respondent.

The statutory amount deposited by the appellant alongwith accrued interest thereon be refunded to him on proper identification and application after the appeal period is over.

Send an authentic copy of this order along with the record in SMCC no. 163 of 2021 to the learned Regulatory Authority for information and necessary action. Also send a copy of this order to the appellant.

Shri Justice P.Patnaik
(Chairperson)

Shri S.K.Rajguru
(Judicial Member)

(Dr. B.K.Das)
(Tech./Admn. Member)

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