

**IN THE KARNATAKA REAL ESTATE APPELLATE  
TRIBUNAL, BENGALURU****DATED THIS THE 14<sup>TH</sup> DAY OF MAY, 2026****PRESENT****HON'BLE JUSTICE Ms. J.M. KHAZI,  
CHAIRPERSON****AND****HON'BLE SRI SANTHOSH KUMAR SHETTY N.  
JUDICIAL MEMBER****APPEAL NO. (K-REAT) 125/2025****BETWEEN:**

1. Sri. Ravi Shankar,  
Aged about 61years,  
No.14, Sterling Heights Apartments,  
Flat 201, 9th Cross, 11th Main,  
Malleshwaram, Bengaluru – 03.
2. Smt. Latha Shankar,  
Aged about 59 years,  
No.14, Sterling Heights Apartments,  
Flat 201, 9th Cross, 11th Main,  
Malleshwaram, Bengaluru – 03.

**...APPELLANTS****(By Amathya – Legal, Advocate)****AND:**

1. The Karnataka Real Estate Regulatory Authority,  
Reptd. by its Secretary,  
Second Floor, Silver Jubilee Block,  
3rd Cross Road, CSI Compound,  
Mission Road, Sampangirama Nagara,  
Bengaluru-560 027.
  
2. Sri. N. Sreenivasa,  
Major in age,  
Reptd. by its 1st Director,  
M/s. Vaishnavi Infrastructure Corridor  
Enterprises Private Limited,  
No.296, 16th Cross,  
Sadashivanagar, Bengaluru – 80.
  
3. Smt. Uma Sreenivasa,  
Major in age,  
Reptd. by its 2nd Director,  
M/s. Vaishnavi Infrastructure Corridor  
Enterprises Private Limited,  
No.296, 16th Cross,  
Sadashivanagar, Bengaluru – 80.
  
4. M/s. Vaishnavi Infrastructure Corridor  
Enterprises Private Limited,  
No.296, 16th Cross,  
Sadashivanagar, Bengaluru – 80.  
Reptd.by its 1st Director                   **...RESPONDENTS**

(By Sri.Rajashekhar K., Advocate for 1st Respondent-RERA Respondents No.2 to 4 remained absent, placed exparte vide order dated 03.01.2026.)

This Appeal is filed under Section 44(1) of the Real Estate (Regulation and Development) Act, 2016, praying to

**Appeal No.(K-REAT)125/2025**

set aside the impugned order dated 03.06.2025, passed by the 1st Respondent-RERA, in so far as it partly allowed the Complaint No.00013/2024 and rejected the other claim made by the Appellants.

This appeal having been heard and reserved for Judgment, coming up for pronouncement of Judgment, this day, the **Hon'ble Judicial Member** delivered the following:

**JUDGMENT**

The captioned appeal arises out of the Order dated 03.06.2025 passed by the Karnataka Real Estate Regulatory Authority (hereinafter referred to as 'the Adjudicating Officer' for short) in Complaint No.00013/2024, whereby the learned Adjudicating Officer partly allowed the Complaint filed by the Appellants (hereinafter referred to as 'the Allottees for short) against the Respondents No.2 to 4 (hereinafter referred to as 'the Promoters for short).

**2.** The grounds culled out from the pleadings by the Allottees are that the Promoters developed the project "Vaishnavi Mandara" (herein after referred as "Project" for

short) situated at Site No.46, Industrial Suburb, 3rd cross road, 2nd stage, Yeshwanthpur, Bengaluru. The Allottees booked the flats No.B-005 & B-006 by entering into an Agreement of Sale on 09.01.2014 and Construction Agreements dated 07.05.2014 & 17.05.2014 and paid entire sale consideration of Rs.93,60,450/-. The Promoters promised to deliver actual possession of the flats on or before 31.01.2015, but failed to adhere the terms of the agreements. Hence, the Allottees have filed their first complaint in No.CMP/180110/0000394 for the relief of delay period interest and direct the Promoters to execute the Registered Sale Deeds. The said complaint was allowed and issued directions accordingly. The Promoters failed to comply the said directions, as such Allottees have initiated execution proceedings and the same is pending for consideration. The present complaint in No.000013/2024 is for seeking compensation for the loss caused by the Promoters due to the deliberate failure in adhering to the terms of the agreements, causing acute mental agony and

financial distress to them due to the non-completion of the project.

**3.** In spite of service of notice, the Promoters failed to appear before the Authority and after hearing the Allottees and considering the documents produced by them, the Learned Adjudicating Officer partly allowed the complaint and directed the Promoters to pay compensation of Rs.2,00,000/- to the Allottees within 60 days from the date of the order, failing which the said amount shall carry interest @ 6% p.a., till realisation. The Promoters were further directed to pay a sum of Rs.7,000/- towards litigation costs.

**4.** Being aggrieved by the said order, the Allottees have preferred the present appeal on the ground that the order passed by the learned Adjudicating Officer is erroneous and untenable, in so far as the legitimate claims of the Allottees quantified at Rs.68,74,936/- as per the Memo submitted on 31.01.2025, came to be rejected. The learned Adjudicating Officer has proceeded on a

fundamentally erroneous premise in holding that, once interest for delay has been awarded, the Allottees are disentitled from claiming compensation for the delay. The finding that interest and compensation for delay are mutually exclusive is contrary to the settled legal position. The failure to take note of the revised memo and to adjudicate upon the amount claimed therein demonstrates a lack of due diligence in appreciating the pleadings and documents on record. This omission is not merely a technical lapse, but goes to the very root of the adjudication, resulting in denial of the legitimate reliefs claimed by the Allottees. The order suffers from material irregularity and an error apparent on the face of the record, thereby rendering it unsustainable in law. The learned Adjudicating Officer has gravely erred in rejecting the claim for compensation on account of delay on untenable ground that no documents were produced in support thereof. The construction agreements contain an express covenant regarding delay compensation, wherein, the Promoters agreed to complete construction of the apartments by

January 2015, with a grace period of three months. Under the said agreements the Promoters had agreed to pay a sum of Rs.10,000/- per month to the Allottees until handing over possession of the flats. With these set of grounds, the Allottees have prayed for setting aside the impugned order dated 03.06.2025 and have sought the following reliefs;

“(a) Declare that the Allottees are entitled to delay compensation notwithstanding the fact that interest for delay has also been awarded, in accordance with law and binding judicial precedents;

(b) Direct consideration of the revised claim amount of Rs.68,74,936/-, together with the revised amounts under each individual head as set out in the Memo dated 31.01.2025;

(c) Allow the revised claim for delay penalty of Rs.38,84,436/- as per the construction agreements and supporting documents;

(d) Grant the estimated sum of Rs.5,00,000/- towards completion of deficiencies in respect of flats B-005 and B-006;

(e) Allow the revised claim of Rs.4,90,000/- towards legal fees, as evidenced by the invoices submitted;

(f) Grant the sum of Rs.10,00,000/- towards loss of opportunity, representing the rental income foregone on account of the delay;

(g) Grant the sum of Rs.10,00,000/- towards mental agony and hardship suffered by the Appellants and their family due to the Promoters prolonged default;

(h) To impose penalty on the Promoters for non-registration of the project under Section 59(1) of the Real Estate (Regulation and Development) Act, 2016

(i) Pass such further or other orders as this Tribunal may deem fit in the facts and circumstances of the present case, in the interest of justice and equity.”

**5.** In response to the notice issued, respondent No.1 appeared through its standing counsel. Despite service of notices, respondent No.2 to 4 remained absent and were placed exparte.

6. Heard the arguments of the learned counsel for the Allottees and respondent No.1 and perused the contentions raised by them in their written synopsis.

7. Now the points that would arise for our consideration are:

- i) Whether, the Allottees prove that the impugned order dated 03.06.2025 and the subsequent order dated 18.07.2025 passed on their claim filed u/s.39 of RERA Act, 2016 suffers from manifest error, legal infirmity and procedural irregularity warranting interference by this Tribunal?
- ii) What Order?

8. Our findings on point No.1 in the Negative for the following:

### **REASONS**

9. **Point No. (i):-** We have examined the Memorandum of Appeal, the Written and Oral submissions made by the Allottees and the Authority, the trial court records and the impugned order at length.

**10.** Before venturing into the points in controversy we deem it appropriate to reiterate the grounds and factual matrix of this case. Allottees had booked two flats bearing No.B-005 & B-006 in the project developed by the Promoters under the name and style of “Vaishnavi Mandara”. The Allottees entered into an Agreement to Sell dated 09.04.2014 and Construction Agreements dated 07.05.2014 and 17.05.2014. The Allottees paid the entire sale consideration of Rs.93,60,450/- on 29.12.2014, which was even prior to the date stipulated in the construction agreements. The Promoters promised to deliver possession of the flats on or before 31.01.2015, but failed to adhere to the terms of the agreements. Hence, Allottees filed a complaint in CMP No.180110/0000394 before the Authority seeking relief of interest for the delayed period and a direction to the Promoters to execute the sale deed. Though the promoters, who appeared in the said complaint through counsel, did not take any trouble to file statement of objections. Upon considering the grounds urged in the said complaint and relying on the Memo of Calculation

filed by the Allottees, the complaint came to be allowed on 30.01.2023. The operative portion of the said order reads as under:

*“(i). Respondent is directed to pay a sum of Rs.70,75,944/- towards interest on delay period to the complainants within 60 days from the date of the order with the rate of interest at 9% calculated from 01.01.2015 to 30.04.2017 and MCLR Plus 2% from 01.05.2017 till 27.10.2022.*

*(ii) Further, the interest due from 28.10.2022 will be calculated at the rate of MCLR + 2% on Principal amount of Rs.93,60,450/- till realization.*

*(iii) Further, the respondent is directed to register the sale deed in respect of flats bearing Nos.B005 and B006 in favour of complainants immediately.*

*(iv) The complainants are at liberty to initiate action for recovery and registration of sale deed in accordance with law if the respondent fails to comply with the order of the Authority.*

*No order as to costs.”*

**11.** As the Promoters did not come forward to pay delay period interest and execute the regular sale deed in

their favour, the Allottees filed an execution petition before the Authority and the same is pending consideration. Thereafter, the Allottees lodged a second complaint seeking a directing to the Promoters to pay a penalty of Rs.33,23,168/-, the estimated cost for completion of the project to the tune of Rs.5,00,000/-, legal fee/expenses incurred by them amounting to Rs.3,65,000/- and compensation of Rs.10,00,000/- each towards loss of opportunity and mental agony. In all the claim under those heads amounted to Rs.61,83,168/-. During the pendency of the complaint, Memos were filed, thereby enhancing the claim to a sum of Rs.68,74,936/-. The learned Adjudicating Officer heard the second complaint and vide order dated 03.06.2025, allowed the complaint in part. The operative portion of the impugned order reads as under;

*“1.The respondents are hereby directed to pay compensation of Rs.2,00,000/- to the complainants within 60 days from the date of the order, failing which it will carry 6% interest on awarded amount per annum till payment of the said entire amount.*

*2. Further, the respondents shall have to pay an amount of Rs.7,000/- to the complainants towards costs of litigation.*

*3. The complainants are at liberty to initiate action in accordance with law, if the respondents fail to comply with this order.”*

**12.** Reiterating the contentions urged in the Memorandum of Appeal, the learned counsel for the Allottees vehemently argued that the impugned order suffers from a grave procedural infirmity in having totally ignored the revised claim of Rs.68,74,936/-. The failure to take into consideration the revised memo demonstrates a lack of due diligence in appreciating the documents on record. The omission is not merely a technical lapse, but goes to the root of the adjudication. The facts averred in Paragraph No.10 and the reasoning assigned in Paragraph 16 of the impugned order are contradictory to each other. Though the Allottees have furnished copies of the Agreement to Sell, Construction Agreements, Payment receipts, Reports regarding pending work and the

Occupancy Certificate, the Adjudicating Officer arrived at an erroneous conclusion that the Allottees have not produced a single iota of evidence to substantiate their case.

**13.** In the Construction Agreement, the Promoters agreed to pay Rs.10,000/- per month till the date of handing over of the flats. The said contractual stipulation leaves no room for ambiguity, yet the said covenant was completely ignored by the learned Adjudicating Officer. The Allottees have also produced documents evidencing the deficiencies in completion of the project and the cost involved in carrying out the pending works. Further, they have incurred litigation costs amounting in all to Rs.4,90,500/-. In support of the revised claim, they have produced detailed invoices and supporting documents along with their memo dated 04.04.2025. Hence, among other grounds, they have prayed for setting aside the order of the learned Adjudicating Officer and for grant of the reliefs as prayed for.

**14.** Refuting each and every contention taken by the Allottees, the learned counsel for the 1st respondent in his written arguments, supported the findings of the Authority and sought dismissal of the appeal.

**15.** In this set of facts, we have carefully gone through the entire materials placed before this Tribunal, as well as the copies of the documents furnished by the Allottees and the materials available on the trial court record.

**16.** As discussed in the preceding Paragraphs, since the Promoters failed to comply with the Order passed by the Authority, the Allottees have filed an Execution Petition before the Authority, which is presently pending consideration.

**17.** As stated supra the first and foremost contention of the Allottees is that the construction

agreement contains a clear recital whereby the Promoters undertook to pay a sum of Rs.10,000/- per month till the date of handing over possession. However, on perusal of the copy of the order passed in the complaint No.CMP/180110/0000394, it is evident that the very same contention had also been raised by the Allottees in the said complaint. After considering those aspects in their proper perspective and on the basis of the memo of calculations submitted by them, compensation for the delayed period was granted in their favour.

**18.** Apart from the delay period interest, if it had been their intention to claim the said amount by placing reliance on the covenants incorporated in the construction agreement, there was no impediment preventing them from seeking such relief in the first complaint lodged before the Authority. Though there was a pleading in the earlier complaint with regard to the said covenant, no relief was sought under that head and therefore, the Allottees had implicitly given up their claim in that regard. As such, the

claim of the said amount in the second complaint is hit by the provisions contemplated under Order II rule 2 of Code of Civil Procedure. Order II, Rule 2 is based on the principle that the defendants should not be vexed twice for one and the same cause. The rule is directed against two evils, the splitting of claims and the splitting of remedies. It provides if a plaintiff omits any portion of the claim, which he is entitled to make or any of the remedies which he is entitled to claim in respect of the cause of action for his suit, he shall not thereafter sue for the portion claimed or for the remedy so omitted. The manner in which the subsequent complaint was lodged by the Allottees, incorporating additional claims that were not sought in the earlier complaint is an after thought intended to secure unlawful gain. The Hon'ble Supreme Court has time and again made it clear that, if party omits to sue or intentionally relinquishes any portion of his claim he shall not afterwards sue in respect of the portion so omission or relinquished. This being the settled proposition of law, we

do not find any infirmity or illegality in rejection of those claims.

**19.** On perusal of the impugned order, particularly Paragraph No.18, it is evident that the learned Adjudicating Officer has clearly observed that the imposition of penalty does not fall within her jurisdiction and therefore said relief was not considered. In our considered view, there is no reason to interfere with the said finding.

**20.** Though Allottees have contended that they had surveyed the property with the assistance of a structural engineer and filed a memo seeking compensation to the tune of Rs.5,00,000/-, as rightly noted by the learned Adjudicating Officer, not a single document was furnished to substantiate the said claim. Therefore, rejection of their claim towards alleged estimated cost for compensation is in accordance with law and no reason is made out to interfere in the said finding.

**21.** The other allegation made by the Allottees is that the learned Adjudicating Officer has totally ignored the revised claim made by them. However, it is not in dispute that the alleged revised claim does not form part of the pleadings. During the pendency of the proceedings, no effort was made by the Allottees to amend their complaint seeking additional reliefs. It is a settled principle of law that no relief can be granted beyond the pleadings. The complaint filed under the provisions of the RERA Act, 2016 constitutes the foundation for adjudication and the Authority is expected to meet only those claims specifically averred therein. If the Allottees intended to seek any additional relief by way of enhancement of compensation, legal expenses or modified monetary claims, the proper course was to seek amendment of the complaint and serve notice to such amendment upon the Promoters.

**22.** In the present case, the Promoters had already been placed exparte. Therefore, subsequent claim

introduced by way of a memo, without amendment of pleadings and without affording an opportunity to contest the same, cannot be legally sustained. Entertaining such an additional claim would be contrary to the principles of audi alteram partem, which continue to govern proceedings under the RERA Act notwithstanding their summary nature. Hence, unless the original complaint itself contained a specific prayer for such relief or the complaint was formally amended after due notice to the Promoters, the Authority could neither have entertained nor granted the additional claim made through the memo.

**23.** The other grievance of the Allottees is that, their claim towards loss of opportunity was not at all considered by the Learned Adjudicating Officer. It is, however, relevant to note that under the RERA Act, 2016, though the expression “loss of opportunity” is not specifically defined, the scope of compensation contemplated under Sections 18, 71 & 72 is sufficiently wide to include actual and consequential losses suffered by an allottee on account

of the promoter's default. However, such compensation cannot be granted on mere assumptions, conjectures or vague assertions. The Allottees are required to specifically plead and establish by cogent evidence that, due to delay in completion, failure to hand over possession or any other breach committed by the promoter, they were deprived of a definite financial, commercial, rental or proprietary opportunity resulting in a quantifiable loss.

**24.** It is relevant to mention that the Adjudicating officer, while considering such a claim, is required to examine whether there exists a direct nexus between the promoter's default and the alleged loss, whether the claim is real and ascertainable or merely speculative in nature and whether the allottees have produced acceptable documentary evidence in support thereof. Mere escalation in market value, generalised hardship or hypothetical future profits ordinarily may not, by themselves constitute a valid claim for compensation towards loss of opportunity under the Act.

**25.** The other set of contentions raised by the Allottees is that they have claimed a sum of Rs.4,90,500/- towards legal expenses and according to them the claim is supported by invoices. However, the alleged invoices do not find place either in the Memorandum of Appeal or in the Trial Court Records. Except filing a bare memo, nothing has been placed before this Tribunal to demonstrate that the said amount was actually incurred for a justifiable cause.

**26.** Though the Authority / Adjudicating Officer under the RERA, Act, 2016 possesses the discretion to award reasonable litigation costs, such costs cannot be granted mechanically or as a matter of course. In order to sustain such a claim, the Allottees are required to establish that they had in fact paid a sum of Rs.4,90,500/- towards legal fees; that there existed necessity for incurring such expenditure and that there was a clear nexus between the expenditure incurred and the proceedings in question.

They must further establish the reasonableness and proportionality of the amount claimed.

**27.** In the present case, the Allottees have not produced satisfactory material such as fee receipts, invoices, statements of account or proof of payment to demonstrate that an amount of Rs.4,90,500/- was in fact incurred towards legal expenses. Even assuming that such expenditure was incurred, the amount claimed appears to be grossly disproportionate to the nature of the dispute and the proceedings before the Authority. Awarding of such exorbitant costs would amount to unjust enrichment rather than reimbursement of reasonable litigation expenses.

**28.** It is well settled that the litigation costs are compensatory in nature and not punitive. Therefore, unless exceptional circumstances are established, only reasonable and realistic costs can be awarded. Hence, the claim towards legal expenses of Rs.4,90,500/- deserves to

be rejected. Hence, for the reasons stated above, awarding a sum of Rs.2,00,000/- as compensation towards mental agony and a sum of Rs.7,000/- towards litigation costs is just, fair and reasonable.

**29.** It is now well settled that a Court or Tribunal cannot grant relief in favour of a party merely on the basis of whims and fancies, unless the claim is supported by cogent documentary evidence. This being factual position, we are of the considered view that there is no reason to interfere with the well reasoned order passed by the Learned Adjudicating Officer in rejecting their claim.

**30.** In view of the foregoing reasons, we find that the Impugned Order passed by the Learned Adjudicating Officer is just and proper and does not suffers from manifest error, legal infirmity or procedural irregularity warranting interference by this Tribunal. Hence, Point No.1 is answered in the Negative and we proceed to pass the following:

**O R D E R**

- (a) The appeal is hereby dismissed;
- (b) The impugned order dated 03.06.2025 passed by the 1st Respondent- The Karnataka Real Estate Regulatory Authority in Complaint No. 00013/2024 is hereby confirmed;
- (c) In view of disposal of the main appeal, pending I.As., if any, shall stand disposed of, as they do not survive for consideration;
- (d) Registry is directed to comply with the provisions of Section 44(4) of the Act and to return the records to RERA, if any received.

There is no order as to costs.

**Sd/-**  
**(JUSTICE Ms. J.M. KHAZI)**  
**HON'BLE CHAIRPERSON**

**Sd/-**  
**(SRI SANTHOSH KUMAR SHETTY N.)**  
**HON'BLE JUDICIAL MEMBER**