

**BEFORE THE MAHARASHTRA REAL ESTATE REGULATORY
AUTHORITY, PUNE**

**CORAM :- SHRI R. K. MALABADE
Hearing in "Hybrid Mode"**

Complaint No.CC006000000079000/APPL/NC/3

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| 1. MADHU ALVANI | |
| 2. BINA KAMAL KHIANI | .. Complainants |

Versus

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| 1. SAI ENTERPRISES | |
| 2. SUPER CONSTRUCTION | .. Respondents |

MAHARERA PROJECT REGISTRATION NO. P51800015798.

Appearance :-

Complainants : Adv. Manish Gala

Respondent No.1 : Adv. Abir Patel

Respondent No.2 : Adv. Vinod Talreja

ORDER

(8th October, 2026)

1. By this non-compliance application, the complainant prayed for execution of the order dt. 31st October 2025 passed by the Hon'ble Member II MahaRERA, whereby respondents are directed to allot a flat admeasuring 795 sq. ft. carpet area and execute a registered Agreement for Sale in favour of the Complainants in the project known as "Sethia Imperial Avenue" (earlier "Sun Gates") within 45 days from the date of the said order, on receipt of balance consideration if any as per the agreed consideration mentioned in the allotment letter dated 29.05.2010. Further the respondent no.1 and 2 are jointly and severally directed to pay simple interest on the amount paid by complainants i.e. Rs. 17,49,000/- towards part consideration amount of the suit flat from 24.06.2012 till handing over of possession of suit flat at the rate as prescribed as per Rule 18 of

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RERA. The parties are permitted to adjust their respective current claims and to pay balance to whom it is due. The respondents no.1 is directed to pay Rs. 20,000/- to complainant towards costs of the complaint.

2. The Ld. Advocate for the complainant submitted that, respondent no.2 are owners cum developers of land being developed under Slum Rehabilitation Scheme, wherein the respondent no.1 has acquired development rights for valuable consideration. The complainants purchased flat no.807 admeasuring 795 sq. ft in Wing B of the project then known as Sun Gates from respondent no.2 (now renamed as 'Sethia Imperial' by respondent no.1) for consideration of Rs. 43,72,500/- under construction linked payment scheme on ownership basis and have paid 40% of the price. The respondent no.2 promised to complete the project within 18 months plus grace period i.e. maximum period within 25 months and handed over possession by 23rd June 2012. Despite much follow up, the respondent no.2 avoided to execute the agreement for sale in favour of the complainant. Moreover, to the shock and surprise the respondent no.2 vide its letter dated 23rd March 2018 expressed its inability in carrying out the construction and asked to contact respondent no.1 for refund, to whom it had handed over the project. The complainant refused to accept the refund and informed their desire to continue with project. However, the respondent no.2 kept on giving false promises but did not execute agreement for sale in their favour. The complainant was constrained to file complaint before the Hon'ble Authority, wherein the Hon'ble Authority was pleased to pass the directions in the order to the respondents to allot a flat admeasuring 795 sq. ft. carpet area execute a registered Agreement for sale in favour of the complainants project known as 'Sethia Imperial Avenue' (earlier 'Sun Gates') within 45 days

from the date of the said order, on receipt of balance consideration, if any as per the agreed consideration mentioned in the allotment letter dated 29.05.2010.

3. The Ld. Advocate for the complainants further submitted that as per the final order the respondents neither allotted the flat admeasuring 795 sq. ft. carpet area from the project 'Sethia Imperial Avenue' within 45 days from the date of the said final order. In other complaints of the same project in the matter of Sangeeta Panjabi, the respondent has taken the same stand that respondent have sold all flats. The respondents have fraudulently sold the flats after passing the final order, to defeat the claim of the complainants. Stand taken by the respondents that all the flats are sold is false by preparing fabricated documents.
4. It is further submitted that, still the complainants have a right to possess the flat which agreed to sale by the respondents, which fraudulently sold, after passing of the final order. Hence, it is prayed to appoint the fit person for execution of the agreement for sale. The respondent has also not paid interest amount to the complainant for delayed possession of the subject flat, as per the final order. So also, it is prayed that, penalty may be imposed upon the respondent since the respondent has committed breach of directions in the final order vide Sec.63 of RERA.
5. The Ld. Advocate for the respondent no.1 submitted that, the complainants seek to enforce a misconceived right arising from a transaction with a different developer i.e. M/s Super Construction, concerning a different project and a flat that does not exist in the Respondent No.1's registered project. The respondent no.1 has no privity of contract with the complainant. The respondent no.1 has not taken over any project in which the complainant is claiming a right nor received any monies

whatsoever from the complainant. The respondent no.1 has only purchase FSI emanating from the larger land and is constructing another building on a different portion of the land, which is evident from the intimation of disapproval of the project itself.

6. The Ld. Advocate for the respondent further submitted that, there are no flats of specifications claimed by the complainants in the sanctioned "Sethia Imperial Avenue" project. As held by the MahaREAT, in 'Maniben Patel and Ors Vs. Tirupati Developers and Or's in Appeal No. AT 00600000052192, that when there is no flat in the sanctioned project matching dimensions or description of the flats mentioned in the agreement for sale, a person cannot be considered as an allottee under RERA. In this case, flat being claimed by the complainant does not exists. The complainant's allotment letter dated 29th May 2010 pertaining to the "Sun Gates" project stands frustrated and impossible to perform, especially against a stranger to the contract. It is therefore prayed for dismissal of the non-compliance application for execution of the impugned order.
7. The Ld. Advocate for the respondent no.2 submitted that, the impugned order is not being sought to be executed in a vacuum and very description of the flat directed to be made subject matter of agreement. The Architects certificate dated 19.01.2026 shows that corresponding carpet area is approximately 480 sq. ft and that 795 sq. ft is referable to saleable/super built-up area. It is further review application is file, therefore prayed that execution proceed is to be differed till adjudication of the review proceeding.
8. Perused the final order, as well as reply filed by both respondents and also, I have gone through the documents produced on record. Admittedly, as per the final order, the respondents are directed to allow a flat admeasuring 795 sq. ft carpet area and execute registered agreement for sale in favour of the

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complainant in the project known as "Sethia Imperial Avenue" (earlier "Sun Gates") within 45 days from the date of the said order on receipt of balance consideration if any as per the agreed consideration mentioned in the allotment letter dated 29.5.2010. It is further not disputed that respondent no.2 is owner cum developers whereas respondent no.1 has acquired development rights for valuable consideration.

9. Admittedly, the complainant has booked flat admeasuring 795 sq. ft in wing B of the project known as Sun Gates from respondent no.2 (now renamed as Sethia Imperial Avenue) for consideration of Rs.43,72,500/-. The complainant has paid an amount of Rs.17,49,000/- towards part consideration amount of the subject flat. According to the respondents there is no flat exists admeasuring 795 sq. ft carpet area in the aforesaid project. It is further all the flats are sold in the aforesaid project. The Ld. Adv. for the complainant submitted that in the similar matter of Sangeeta Punjabi having the same project, the Hon'ble Appellate Tribunal has observed on 27.4.2026 that the developer has sold those units in order to defeat the rightful claim of decree holder. In the present matter, despite the order passed by the Hon'ble Authority, the respondent has not executed the agreement for sale by allotting the flat admeasuring 795 sq. ft within 45 days from the date of the said order. Since all the flats are sold by the respondents and none of the flat is allotted to the complainant, the fit and proper person cannot be appointed as per circular No. 50 of MahaRERA. However, there is non compliance in the directions of the final order passed by the Hon'ble Authority, committed by the respondents. It is further the respondents have not paid the interest as per the final order on the amount paid by the complainant i.e. of Rs.17,49,000/- from 24.6.2012, at the rate as prescribed under Rule 18 of RERA. Hence, for the above said non compliance the respondents are

liable to pay penalty under Section 63 as well as it would be just and proper to issue recover warrant against the respondent for recovery of interest amount as per the final order. Accordingly, I proceed to pass following order;

ORDER

1. The respondents are directed to pay lumpsum penalty of Rs.10,00,000/- vide Section 63 of RERA within two months from the date of this order to be deposited with the office of MahaRERA, failing which issue recovery warrant against the respondents for recovery of the same in accordance with the provisions of Section 40(1) of RERA.
2. Issue recovery warrant against the respondents for recovery of accrued interest on amount of Rs.17,49,000/- from 24.6.2012 and cost of Rs.20,000/- as per the final order, addressing to the concerned District Collector to recover the same to be paid to the complainants, in accordance with the provisions of Section 40(1) of RERA.
3. The concerned District Collector is to submit compliance report to this Authority.
4. In view of the above, the present non compliance application stands disposed of.

Pune
Date :- 08-10-2026


(R.K.Malabade)
Adjudicating Officer, MahaRERA, Pune