IN THE ODISHA REAL ESTATE APPELLATE TRIBUNAL AT BHUBANESWAR

OREAT Appeal No. 152/2025

M/s.Dugar Realty & Infrastructure Pvt. Ltd.,
Represented through
Sri Ronak Dugar, Director ...Appellant.

-Versus-

Odisha Real Estate Regulatory Authority,
Represented through The Secretary. ...Respondent

Counsel for the appellant : Mr.B.K.Badajena,Advocate
Counsel for the respondent : Mr.B.Nayak, Advocate

CORAM :
Shri S.K.Rajguru, Judicial Member
Dr. B.K.Das, Tech./Admn. Member

O R D E R
6.11.2026

Hearing of the appeal having concluded, it is taken up for final order.

2. The appellant-promoter in this appeal assails the impugned order no.5261/ORERA, Bhubaneswar dated 2.8.2024 passed by the Odisha Real Estate Regulatory Authority (hereinafter referred to as the learned ORERA) rejecting his online application No.ORERA/023280228 dated 1.11.2023 for registration of the real estate project "Dugar Swastik". Prayer has been made by the appellant in this appeal to set aside the impugned order dtd.2.8.2024 and to restore the said application dated 1.11.2023.

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

The appellant is a private limited company having its registered office at B-15, Saheed Nagar, Bhubaneswar. The appellant filed an online application vide no.ORERA/023280228 dated 1.11.2023 for registration of a residential project namely "Dugar Swastik" proposed to be developed by him on Plot No.1034 in Khata No.616/842 (Kisam: Gharabari) of Andilo Mouza in Khurda district having an area of Ac.0.220, with the ORERA, but the learned ORERA vide its order dated 2.8.2024 rejected the said application with the following observation:

> *"You are hereby informed that your Online application dt. 01.11.2023 filed for Registration of project " Dugar Swastik" is rejected for the following reasons.*
>
> 1. *Despite getting several opportunities, you are unable to comply with the deficiencies pointed out by the office. Therefore, your application for registration of the project has been rejected by the Authority.*
>
> *However, you are given liberty to apply afresh after complying with all the deficiencies."*

It is submitted by the appellant that the aforesaid project land stands recorded in the name of one Kumundalata Sahoo, W/o.Late Nilamani Sahoo. The said recorded tenant died on 10.09.2020 leaving behind her three sons namely Loknath Sahoo, Somanath Sahoo and Trinath Sahoo and only daughter Chandraprava Sahoo. The aforesaid legal heirs of Late Kumundalata Sahoo

while being in peaceful possession over the project land, on 22.3.2021 they executed an "Agreement" with the appellant to develop the project land for construction of a residential apartment project on sharing basis i.e 40% of owners and 60% of the developer. In accordance with the agreement dated 22.3.2021, the appellant paid a total amount of Rs.16,00,000/- to all the legal heirs of Late Kumundalata Sahoo. Subsequently, Trinath Sahoo, the youngest son of late Kumundalata Sahoo and one of the executants of the agreement dated 22.3.2021 passed away on 10.5.2021 leaving behind his widow Gita Jajnyaseni and minor son Sai Krishna as his successors-in-interest. It is further submitted by the appellant that, on 31.1.2022 the legal heirs of late Kumundalata Sahoo and Late Trinath Sahoo executed a registered Joint Development Agreement together with a registered General Power of Attorney authorising the appellant therein to develop the project land on the aforesaid sharing basis. The appellant submitted building plan before the Bhubaneswar Development Authority and accordingly, the Authority vide letter No.BP/BDA/004541 dated 25.08.2023 approved the project, a S+4 residential structure under Medium Income Housing, on the project land. Thereafter the appellant executed a "Deed of Share Allocation" on 30.08.2022 with the owners of the project land allotting them their respective flats as per their respective shares. Subsequently, on 7.10.2023 the appellant furnished information and documents along with registration fee as per rule 3 of the Odisha Real Estate (Regulation

&Development) Rules, 2017 through on line for registration of the project in the name and style "Dugar Swastik" with the ORERA and accordingly, the ORERA asked the appellant to submit the permission from the District Judge, Khurda under the Hindu Minority and Guardianship Act, 1956 (in short "The Act, 1956"). Referring to Section 8(2) of the Act, 1956, the appellant submitted that after the death of Trinath Sahoo his widow Gita Jajnyaseni in her individual capacity as well as in the capacity of the mother guardian of her minor son has executed the registered Joint Development Agreement and the registered General Power Of Attorney with other co-sharers in favour of the appellant. The appellant has claimed that when the mother guardian does not intend to alienate the share of her minor son, no permission under Section 8 (2) of the Act, 1956 is required and therefore, the rejection of the online application for registration of the project with the ORERA made by him on 1.11.2023 is unwarranted. The appellant while making the prayer as mentioned earlier in paragraph-2 has made a notable mention that on 20.8.2025 Somanath Sahoo, another co-sharer of the project land has passed away leaving behind his widow and two minor children.

4) In the hearing of the appeal, the learned counsel for the appellant has submitted that the impugned order dated 2.8.2024 of the learned ORERA in rejecting his online application for registration of the project with it is erroneous and illegal in view of the fact that the learned ORERA has failed to take note of the fact

that the permission of the District Judge, Khurda under Section 8 (2) of the Hindu Minority and Guardianship Act, 1956 is not at all required when the minor does not intend to sell his share in the project land. Further contending that the learned ORERA has misconceived the provision under Section 8(2) of the Act, 1956, the learned counsel for the appellant has contended that the rejection of the application for registration with the ORERA being arbitrary is liable to be set aside.

5) On the other hand, the learned counsel for the respondent-ORERA has submitted that on the demise of Trinath Sahoo the Joint Development Agreement has lapsed and the development of the project land requires the permission of the Court of the District Judge, Khurda under section 8(2) of the Hindu Minority and Guardianship Act, 1956. It is further submitted by the learned counsel for the respondent that inspite of being given ample opportunities the appellant has failed to obtain the permission of the District Court, Khurda under the aforesaid provision of law and therefore, his application for registration of the project with the ORERA has been rightly rejected vide order dated 2.8.2024. The learned counsel for the respondent has pointed out that in spite of rejection of the application for registration the appellant has been granted liberty to file a fresh application for registration of his project after obtaining the relevant documents including the permission of the District Court, Khurda under Section 8 (2) of the Act, 1956. Further contending that, the appeal filed by the

appellant is devoid of any merit, the learned counsel for the respondent has prayed for its dismissal.

6. The impugned order dated 2.8.2024 of the learned ORERA rejecting the application of the appellant for registration of the project though reveals that the rejection was on account of the appellant's inability to comply with the deficiencies pointed out by the office, the specific deficiencies which were not complied by him have not been mentioned therein. On going through the concerned file of the registration branch of the ORERA i.e MSL No.1536, it is found that the notes therein also do not clearly specify the deficiencies that the promoter was required to rectify. It is only in the memo of appeal the appellant has stated that the application for registration of the project has been rejected for his failure to obtain permission from the court of the District Judge, Khurda under Section 8 (2) of the Hindu Minority and Guardianship Act, 1956 for sale of the share of the minor son of Late Trinath Sahoo, one of the co-owners of the project land.

As already mentioned in Para-3, the appeal memo reveals that on the basis of an agreement dated 22.3.2021 between the legal heirs of Late Kumundalata Sahoo and the appellant the project land has been entrusted to the latter for development of a residential apartment project thereon with the term that shares shall be allocated between the developer and the owners in the ratio of 60%:40%. Subsequently, after Co-owner Trinath Sahoo died on 10.5.2021, a registered Joint Development

Agreement was executed on 31.1.2022 by the appellant and the owners of the project land including the widow and minor son of deceased Trinath Sahoo. The owners of the project land had also executed a registered general power of attorney in favour of the appellant on the same day with regard to the development of the project with the aforesaid share allocation.

The above mentioned transactions relating to the project land therefore involves the exercise of guardianship over the minor's share therein. As already mentioned earlier in Para-4, the appellant's objection to the rejection of the application for registration is on the ground that permission from the court of District Judge, Khurda under Section 8 (2) of the Hindu Minority and Guardianship Act, 1956 is not at all required as the minor does not intend to sell his share in the project land. In this context, the aforesaid provision of law needs to be gone through. The same reads as under:

> *"8.* ***Powers of natural guardian****.—*
> *(1) The natural guardian of a Hindu minor has power, subject to the provisions of this section, to do all acts which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate; but the guardian can in no case bind the minor by a personal covenant.*
> ***(2) The natural guardian shall not, without the previous permission of the court,— (a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of the minor; or***
> ***(b) lease any part of such property for a term exceeding five years or for a term extending more than one year beyond the***

date on which the minor will attain majority.
(3) Any disposal of immovable property by a natural guardian, in contravention of subsection (1) or sub-section (2), is voidable at the instance of the minor or any person claiming under him.
(4) No court shall grant permission to the natural guardian to do any of the acts mentioned in subsection (2) except in case of necessity or for an evident advantage to the minor."

Going through the registered Joint Development Agreement dated 31.1.2022, it is found that the owners of the project land had agreed to grant exclusive right of development to the developer on the aforesaid sharing basis and it was also agreed that the developer will construct apartments on the project land for residential purpose as per the approved plan of BDA or any other concerned authority and will be at liberty to sell 60% of the total super built up area of the apartment along with proportionate impartible undivided share in the project land. The registered General Power Of Attorney dated 31.1.2022 also authorizes the developer to sign, execute and register sale deed or sale deeds of 60% of the total super built up area along with proportionate impartible undivided share in the project land. Thus, even if the mother guardian has executed the Development Agreement on behalf of her minor son, the agreement goes beyond a mere arrangement for construction. The project land remaining jointly owned by the legal heirs of late Kumundalata Sahoo, the development agreement dated 31.1.2022involves substantial development and alienation

rights affecting the minor's undivided share in the project land which he has succeeded to on the death of his father. Consequently, obtaining previous permission from the court of District Judge, Khurda under Section 8 (2) of the Act, 1956 is necessary for the appellant developer to exercise the right of alienation in respect of his share of 60%.

As Section 4(2) (l) (A) of the R.E (R & D) Act, 2016 provides that, the promoter shall furnish a declaration supported by an affidavit stating that he has a legal title to the land on which the development is proposed along with legally valid documents with authentication of such title, if such land is owned by another person, and as it is already held above that the development right entrusted to the appellant affects the minor's share in the project land, such share will remain vulnerable to challenge in absence of the required judicial permission under Section 8 (2) of the Act, 1956. Therefore, the ORERA's insistence on the appellant to obtain the permission of the court of the District Judge, Khurda under Section 8 (2) of the Act, 1956 appears to be reasonable.

7. In view of the discussions made in the preceding paragraph, we are of the opinion that, the appellant-promoter is required to obtain permission of the court of the District Judge, Khurda under Section 8(2) of the Hindu Minority and Guardianship Act, 1956 for development of the project on the land involving the interest of the minor. The rejection of his application for

registration vide order dated 2.8.2024 is legally correct for his failure to obtain the aforesaid judicial permission. The appellant is not going to be prejudiced or put to irreparable injury as in the very impugned order he has been given the liberty to apply afresh after compliance of all the deficiencies.

In the result, the appeal being devoid of any merit stands dismissed on contest against the respondent.

Send a copy of this order together with the record of MSL No.1536 to the learned ORERA for information and necessary action. Also send a copy of this order to the appellant-promoter.

Shri S.K.Rajguru
(Judicial Member)

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

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