



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

<b>Complaint no.:</b>	<b>2546 of 2022</b>
<b>Date of filing.:</b>	<b>20.09.2022</b>
<b>First date of hearing.:</b>	<b>27.09.2022</b>
<b>Date of decision.:</b>	<b>01.07.2024</b>

1. Satish Kumar Gupta Son of Shri Rameshwar Dass Gupta.# 2089, Urban Estate Sector-7, District Kurukshetra-136118.
2. Manish Gupta Son of Shri Padam Singh Gupta, # E-113, Preet Vihar, ShakarPur Baramad Shaarpur, East Delhi, Delhi-110092.
3. Pooja Arora Wife of Shri Raj Kumar Arora, #TU-21, Upper Ground Floor, Near City Park Hotel Pitampura, North West Delhi, Saraswati Vihar, Delhi-110034.
4. Raj Katyal Wife of Shri Ashok Katyal. # 2310, Near G.T.B.Nagar Metro Station,Hudson Line, G.T.B. Nagar North West Delhi-110009.
5. Rajbir Sandhu Son of Shri Sarbider Pal Singh Sandhu, # G-902, Ambience Apartments, Nathupur (67), Nathupur, Gurgaon, Haryana, 122002.
6. Ramesh Chand Son of Shri Kashmiri Lal, # B-158, Upper Ground Floor, Maharana Partap, Enclave, VTC, Pitampura, P.O.Saraswati Vihar, District North West Dehli, Dehli-110034.
7. Pooja Wife of Shri Prem Prakash, # 52, Tagore Park, G.T.B. Nagar Model Town, North West Dehli, Dehli-110009.

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8. Nishi Gupta wife of Shri Rajinder Kumar Garg, # 42, First Floor, Savita Vihar, Near Yamuna Sports Complex, East Dehli- Dehli-110092.

9. Vivek Sharma Son of Shri Bhav Deo Sharma, # SU-166, Pitampura, North West Dehli, Dehli-110088.

10. Puneet Kumar Son of Shri Subhash Chander, # 37, Anand Vihar, Pitampura, North West Dehli, Dehli-110034.

11. Shashi Rajgopal Khandelwal wife of Shri Rajgopal Khandelwal, # 1501/1502, Duplex heights, A-Wing, Yamuna Nagar, near Millat Nagar, Andheri West, VTC Mumbai, P.O. Azad Nagar, Sub District Andheri, District Mumbai Suburban, State Maharashtra, Pin Code-400053.

12. Adesh Panwar Son of Shri Om Parkash Panwar, #A-4950, Near Gurudawara, Mohan Garden, Uttam Nagar, West Dehli, Dehli-110059.

13. Atul Sant Son of Shri Krishan Kumar Sant, # E-1048, Saraswati Vihar, Pitampura, North West Dehli, Dehli-110034.

14. Gurdeep Singh Kohli Son of Shri Harnam, # E-52, Windsor Park, 5, Vaibhav Khand, Indirapuram, Ghaziabad, District Ghaziabad, Uttar Pardesh-201014.

**....COMPLAINANTS**

**VERSUS**

1. M/s Parsvnath Developers Limited through its Managing Director, Office at Parsvnath Metro Tower, Near Shahdara Metro Station, Shahdara, Dehli-110032. Corporate Office - 6th Floor, Arunachal Building, 19, Barakhamba Road, New Delhi-110001.

2. Rishika Construction L.L.P. through its Managing Director, Office:- 109-110, MG Mall, Sector-14, Sonapat, Haryana.

3. Director, Department of Town and Country Planning, Haryana, office at Plot No. 3, Sec-18A, Madhya Marg, Chandigarh 160018.

4. District Town Planner, Sonapat, Office at HUDA Office Building, Sector-15, Sonapat.





**A. FACTS OF THE PRESENT COMPLAINT AS STATED IN THE COMPLAINT :-**

2. That the complainants booked their plots in the project of respondent No.1 in their project-“Parsvnath City, Sonapat” between the years 2004 to 2011. Respondent No.1 failed to offer the possession of the allotted plots to the complainants and after waiting for a long time complainants filed various complaints before this Hon'ble Authority and this Hon'ble Authority passed an order dated 13.10.2021 whereby directions were issued to respondent No.1 to pay upfront amount as shown in the table in para no.7 of the ibid order within 90 days of the uploading of the order on the website of the Authority. Authority further observed that the respondent's liability for paying monthly interest as shown in the table mentioned in para no.7 of the order will commence w.e.f. 14.11.2021 and it shall be paid on monthly basis till valid offer of possession is made to complainants. This Hon'ble Authority had also ordered in Para No.4 (iv) of the ibid order *“that the respondent No.1 is prohibited from alienating the land of the project in question for any purposes except for completion of the project.”* Copy of said order dated 13.10.2021 is attached as Annexure C-2.
3. That in one of the complainants, namely, Rajbir bearing Complaint No.887/2020, submitted an application dated 13.01.2022 to the Tehsildar,



Sonepat for Endorsement of the same in the land records held in the name of respondent No.1 and subsidiary companies alongwith order of this Hon'ble Authority. Copy of said application dated 13.01.2022 is attached as Annexure C-3.

4. That consequent to the submission of the above mentioned application, an endorsement was made in the "Nakal Jamabandi" of the land records held by respondent No.1 stating that according to the order of the HRERA Panchkula dated 13.10.2021(Annexure C-2), Khewat Nos. 200, 201, 252, 254 and 262 are prohibited from being alienated by respondent No.1 for any other purposes except for the completion of the project. Copy of the Jamabandi for the year 2020-2021 bearing all the endorsements is attached as Annexure C-4.
5. That all the complainants who were granted relief of upfront interest and monthly interest as mentioned above filed an execution before this Hon'ble Authority as respondent No.1 failed to implement the said orders dated 13.10.2021 of this Hon'ble Authority. The Hon'ble Authority taking a serious view of the same, passed an order dated 23.08.2022 in executions whereby land measuring 5.07 acres earmarked for High School in the project of the respondent No.1 was attached for realization of the debt owned by the respondent No.1 of the complainants. This Hon'ble Authority directed the respondent no. 5 -Deputy Commissioner,



Sonepat to recover decreed amount from the sale of the said land as arrears of land revenue and remit the same to authority after such recovery for further payment to complainants. Copy of the order dated 23.08.2022 is attached as Annexure C-5.

6. That respondent No.1 sold an area of 166 Kanals 34 Marlas of land to the respondent No.2 on 25.11.2021 to frustrate the claim of the complainants. This was done in connivance with the respondent No.2 to avoid the liabilities of respondent No.1 to the complainants who had booked their plots in the project of the respondent No.1 namely, 'Parsvnath City, Sonipat'. Copies of two sale deeds dated 25.11.2021 are attached as Annexure C-6.
7. That on 13.09.2022, to the surprise of the complainants, respondent no. 2 started constructing a road on the land which was prohibited to be alienated. Complainants have submitted that the act of the respondent no. 2 is a clear violation of the order of this Hon'ble Authority which is required to be immediately stayed and a punitive action is required to be taken against the respondent nos. 1 and 2 as both are working in tandem for the sole purpose of frustrating the claim of the complainants besides wilful neglect of the order. Copy of the map showing the land on which road is being constructed is attached as Annexure C-7.



8. That act of respondents is a violation of section 11, 12, 12-A and 13 of the Punjab Scheduled Roads and Controlled Area Restriction of Unregulated Development Act, 1963. Perusal of aforementioned provisions clearly provides that without getting change of land use or without getting plan sanctioned from the Town and Country Planning Department, any activities to distort the original status of the agricultural land is illegal. Feeling aggrieved with the action of the respondent nos.1 and 2, present complaint has been filed before this Hon'ble Authority.

**B. RELIEFS SOUGHT:-**

9. That the complainants seeks following reliefs:-
- (i) To direct the respondent No.1 not to disturb the status of the land and to comply with the direction of this Hon'ble Authority order (C-2).
  - (ii) To direct the respondent No.2 not to proceed further for construction of the road and stay further proceedings of whatsoever nature which disturbs the original status of the land earmarked for satisfaction of the claim of the complainants.
  - (iii) To direct respondent Nos.1 and 2 to compensate the complainants for legal expenses and mental harassment caused to them.
  - (iv) Any other relief which this Hon'ble Authority deems fit in the premise of facts and legal preposition of the present case.



**C. REPLY SUBMITTED ON BEHALF OF RESPONDENT NO. 1**

Learned counsel for the respondent no. 1 filed a detailed reply on 19.10.2023 pleading therein as under:-

10. That the Respondent had applied for grant of Letter of Intent qua land measuring 25.344 acres in Village Raipur, Tehsil and District Sonipat. The application for Letter of Intent was accompanied with land schedule clearly mentioning the revenue numbers for the entire 25.344 acres. A true copy of the license application dated 19.09.2019 for 25.344 acres of land in Village Raipur, Tehsil and District Sonipat alongwith land schedule is annexed as Annexure R-1.
11. That other than the revenue numbers mentioned in the application for grant of Letter of Intent, no other land was subject matter of development in terms of the 1975 Act.
12. That without prejudice to the rights of the Respondent against the order passed in Complaint No.865 of 2020 and connected matters and the remedies available in law, it is submitted that all the persons who had been considered for allotment would fall in the aforesaid land parcel of 25.344 Acres.
13. That in this background, certain persons claiming to be the allottees in the aforesaid project area, filed various complaints before this Hon'ble Authority alleging delay in completion of the project. The lead





case/complaint was identified as complaint No 865 of 2020. In the said case, this Hon'ble Authority vide its order dated 13.10.2021, passed various directions and one of the directions, which is necessary for adjudication of the present complaint is reproduced herein after as under:

*“Para-4(iv). Further respondent is prohibited from alienating the land of the project in question for any purposes except for completion of the project.”*

14. That the Respondent would submit that it has not sold any part of the aforesaid license application and as such, it has not violated the aforesaid directions passed by this Hon'ble Authority.
15. That the present complaint has been filed on a misconceived notion that the Respondent has sold the aforesaid land measuring 25.344 acres. The allegation is factually wrong.
16. That what has been sold is other land parcels of the Respondent, which is beyond the project area of 25.344 acres. Therefore, it would be factually wrong to allege that the Respondent has violated the order dated 13.10.2021 passed by this Hon'ble Authority.
17. That the sale deed dated 25.11.2021 as placed on record by the Complainants, pertains to the other land parcel of the Respondent owned by it along with its Associate Companies. A perusal of the land schedule/revenue numbers mentioned in the sale deed if compared with



the land schedule/revenue number mentioned in the license application for land parcels for 25.344 acres would clarify and vindicate the stand of the Respondent.

18. That accordingly, Respondent No.2 was taking steps to secure its land parcels purchased by it vide sale deed dated 25.11.2021 and the it is reiterated that the said land is not part of any Real Estate Project. The Complainants have filed a factually incorrect complaint.
19. That without prejudice to the above stand, it is submitted that in deference to the order dated 02.05.2023, the construction activities being undertaken by Respondent. No.2 on its land have been stopped and further action would be taken only after due clarification and permission from this Hon'ble Authority.
20. That in view of the above, the Respondent would submit that it has not violated the directions passed by this Hon'ble Authority and rather the Complainants should be imposed exemplary costs for needless and unwarranted litigation impleading Respondent No.2.
21. That the directions rendered by this Hon'ble Authority in Complaint No.865 of 2020 decided vide 13.10.2021 have no linkage with the facts and circumstances as set up in the present complaint.
22. That no part of the project area has been sold to Respondent No.2. The Complainants have no interest in any other land parcel of the Respondent



except the land parcels measuring 25.344 acres for which an application for grant of license had been submitted by it. The sale deeds pertain to the area beyond the project area measuring 25.344 acres.

23. Respondent no. 2 had filed an affidavit dated 04.11.2022, wherein it is stated as under :-

*"With regards to the complaint filed before the Authority, Rishika Construction LLP hereby confirms:*

- 1) That the construction was initiated considering it was a Sector Road as per drafted under the Sectorial plan. Thereby, complying with the drawings Rishika Construction LLP had progressed on to developing the Road by itself. However, after the complaint registered with the Authority, we got informed that the construction is prohibited, and we have stopped the construction since then.*
- 2) We, hereby confirm, along with affidavit attached, that we will not further construct the road as directed to us by HRERA. We apologise for any inconvenience caused to the Authority."*

**D. ISSUES FOR ADJUDICATION :-**

24. Whether the respondents have acted in violation of the order dated 13.10.2021 passed by the Authority or not?

**E. FINDINGS AND OBSERVATIONS OF THE AUTHORITY**

25. In the present complaint, notice dated 22.09.2022 was issued to the respondents for hearing on 27.09.2022. On first hearing dated 27.09.2022, counsels have put in appearance on behalf of respondent no. 1 and 2. No one



has put in appearance on behalf of respondent no. 3,4, and 5. Nor any reply has been filed by the respondent no. 3, 4 and 5 till date. It is pertinent to mention here that complainants have sought reliefs against respondent no. 1 and 2 only. No relief in specific has been sought against respondent no. 3, 4 and 5. Therefore, no directions are passed against respondent no. 3, 4 and 5 in this order.

26. It is pertinent to mention here that the case was first heard on 27.09.2022 wherein a detail order incorporating facts of the case was passed which is as follows:-

*“Present complaint has been filed by a bunch of 14 complainants who had booked their plots in the project of respondent no.1 in their project named ‘Parsvnath City, Sonapat’ from the years 2004 to 2011. Respondent no. 1 failed to offer possession of the allotted plots to the complainants. Complainants filed various complaints before this Authority after waiting for long time and this Authority vide order dated 13.10.2021 passed in bunch of complaint with lead case no. 865 of 2020 had directed the respondent no.1 to pay upfront amount as shown in Para 7 of said order within 90 days and also observed that respondent’s liability for paying monthly interest will commence w.e.f. 14.11.2021 and it shall be paid on monthly basis till valid offer of possession is made to the complainants. Further, in Para 4(iv) of said order respondent no.1 was prohibited from alienating the land of the project in question for any purposes except for completion of the project. Relevant portion of order dated 13.10.2021 is reproduced below for reference:*

*“4. (iv) In given situation, complainants have today submitted that they do not want to withdraw from the project and are ready to await delivery of possession after its completion but in the*



*meanwhile, may be awarded upfront compensation. Such prayer of the complainants deserves to be allowed in view of the provisions of Section 18 of RERA Act which provides that in case allottee does not wish to withdraw from the project which the promoter could not complete on time, concerned promoter in that eventuality is liable to pay interest to the allottee for every month of delay till the handing over of the possession, at such rate as may be prescribed. So, Authority accepts the complainants prayer and directs the respondent to pay each complainant upfront delay interest on the amount already paid by respective complainant allottee from deemed date of possession till the date of this order and also future interest for every month of delay occurring thereafter till the handing over of possession, at the rate prescribed in Rule 15 of the HRERA Rules, 2017 i.e. SBI MCLR+2% which as on date works out to be 9.30% (7.30%+2.00%). Further respondent is prohibited from alienating the land of the project in question for any purposes except for completion of the project."*

2. *It has been submitted by the complainants that they had filed execution petitions before this Authority and Authority vide order dated 23.08.2022 issued recovery certificates for attachment of 5.07 acres land earmarked for High School and for recovery of decreed amounts from sale of said land as arrears of land revenue and remit same to the Authority. It has also been submitted that respondent no. 1 sold an area of 166 Kanals 34 Marlas of land to respondent no.2 on 25.11.2021 to frustrate the claim of complainants. Further, on 13.09.2022 respondent no. 2 has started constructing a road on the land which has been prohibited to be alienated and used for other purposes. Action of respondent no. 2 is contemptuous and in clear violation of the order of this Authority, so prayer has been made that:*

- (i) Respondent no. 1 be directed not to disturb the status of the land and to comply with direction of this Authority.*
- (ii) Respondent no. 2 be directed not to proceed further for construction of the road and stay further proceedings of whatsoever nature which disturbs the original status of the land earmarked for satisfaction of the claim of complainants.*



(iii) Respondent no.1 and 2 be directed to compensate the complainants for legal expenses and mental harassment caused to them.

(iv) Any other relief which this Authority deems fit.

3. Learned counsel for no.1 and respondent no.2 have sought time to file reply in the matter. Learned counsel for respondent no.1 however stated that respondent is not disobeying the orders passed by the Authority. Land which is ordered to be attached by this Authority has not been touched upon by the respondent. She however stated that detailed reply will be filed in them matter.

4. In view of above, it is observed that Authority vide its order dated 13.10.2021 in bunch of complaint with lead case o. 865 of 2020 has already prohibited the respondent no.1 to alienate land of the project in question for any purposes except for completion of the project. Accordingly, respondent no. 1 and respondent no.2 are directed to maintain status quo of the project in question and particularly respondent no. 2 is prohibited from carrying out any further construction activity and in case he acts in defiance of this Authority, strict action will be taken against him. "

27. Thereafter, the case was listed for second hearing on 31.01.2023, whereby, respondent no. 1 sought time to file reply and respondent no. 2 had submitted an affidavit to the effect that 'they will not further construct the road as directed by this Authority.' Thereafter, case was listed for third hearing on 02.05.2023 wherein, complainants brought to the notice of Authority that respondent no. 2 had re-started the construction of road on 16.03.2023. Taking note of defiance on the part of respondents, Authority had issued a Show Cause Notice u/s 63 of the RERA Act, 2016 to respondent no. 1 and Show Cause Notice to respondent



no. 2 for initiating legal action against it with a direction to maintain status quo to parties. As per office record, respondent no. 1 had filed its reply to the show cause notice in registry on 19.10.2023 wherein, it has been stated as follows:-

*"That the present complaint has been filed on a misconceive notion that the Respondent has sold the aforesaid land measuring 25.344 Acres. The allegation is factually wrong.*

*That what has been sold is other land parcels of the Respondent, which is beyond the project area of 25.344 acres. Therefore, it would be factually wrong to allege that the Respondent has violated the order dated 13.10.2021 passed by this Hon'ble Authority.*

*That the sale deed dated 25.11.2021 as place on record by the Complainants pertains to the other land parcel of the Respondent owned by it along-with its Associate Companies. A perusal of the land schedule/revenue numbers mentioned in the sale deed if compared with the land schedule/revenue number mentioned in the license application for land parcels for 25.344 Acres would clarify and vindicate the stand of the Respondent.*

*That accordingly, Respondent No.2 was taking steps to secure its land parcels purchased by it vide sale deed dated 25.11.2021 and the it is reiterated that the said land is not part of any Real Estate Project. The Complainants have filed a factually incorrect complaint.*

*That without prejudice to the above stand, it is submitted that in deference to the order dated 02.05.2023, the construction activities being undertaken by Respondent No.2 on its land have been stopped and further action would be taken only after due clarification and permission from this Hon'ble Authority*

*That in view of the above, the Respondent would submit that it has not violated the directions passed by this Hon'ble Authority and rather the Complainants should be imposed exemplary costs for needless and unwarranted litigation impleading Respondent No.2.*



*That the directions rendered by this Hon'ble Authority in Complaint No.865 of 2020 decided vide 13.10.2021 have no linkage with the facts and circumstances as set up in the present complaint.*

*Therefore, it is respectfully prayed that in view of the submissions made hereinabove, the present complaint may kindly be dismissed and the Show Cause Notice (SCN) may kindly be dropped or withdrawn."*

28. Case was listed for fourth hearing on 12.07.2023 wherein no one appeared on behalf of both parties. Thereafter, the case was listed for fifth hearing on 19.10.2023 wherein it was submitted by Id. Counsel for complainants that respondents are still constructing the road and wall despite specific directions of the Authority. Considering the submissions of the complainants and to evaluate the exact position at site, the Authority had decided to appoint a Local Commissioner (LC). Both parties were directed to submit cost of Rs 20,650/- each. Relevant part of the order is reproduced below for reference:-

*"6. Authority directs the complainants to submit the photographs of the location from where the earlier photographs were taken (as submitted as annexure A-5 of application dated 27.03.2023) in order to ascertain that whether construction took place between the said period. Further, the Authority directs the respondents that order of the Authority whereby the respondents have been directed to maintain status quo be pasted on a notice board on the site and submit proof with respect to the same.*

*7. Authority also directs that a local commissioner be appointed to report whether the construction has been carried out after the order dated 27.09.2022 of the Authority. Cost of ₹41,300/- be submitted equally (Rs.20,650/- each) by both the parties by 30.11.2023 and thereafter Authority will appoint the local*





*commissioner who will inspect the site and submit his report by 10.01.2024. Authority further directs the office to supply copy of local commissioner report to both the parties, if it is submitted on the date specified."*

29. Case was then listed for sixth hearing on 22.04.2024, whereby it was observed that neither complainant nor respondent has placed on record any proof of payment towards appointment of local commissioner. Both parties were again directed to place on record proof of payment towards appointment of local commissioner within 15 days. Further office was directed to appoint local commissioner for visiting the site. In compliance of it, complainants had placed on record proof of cost of ₹20650/- paid vide DD no.240304 dated 21.12.2023. However, respondent no.1 had not placed on record any proof of payment till date.

30. M/s Pro- Tech Consortium was appointed as local commissioner vide letter dated 21.05.2024 who had visited the site on 05.06.2024 and submitted its report in registry on 27.06.2024. Relevant part of said report is reproduced for reference:

*"Construction after 27.09.2022.*

*The prohibited part of land was abutting to the south side of a plotted area in which roads were constructed. One road of interlocking concrete blocks was running North South from plotted area in to Rectangle No. 24 across Killa nos. 15 and 16 which were part of the prohibited land (Annexure-1, photo 1) marked as A in annexure- II.*



*Another road running East-West also in Rectangle No. 24 across Killa no. 24 was being constructed during the visit itself and it also covered a triangular strip of the prohibited land (Annexure-I, photo 2, 3) marked as B in annexure-II.*

*A sector dividing four lane metalled road was existing in western part of the prohibited land. It was running North-South and some part of prohibited land was on western side of this road and was part of sector - 11. Pits had been created in this western part at 3-4 places by mining of the earth which had been transported to some unknown place. Some of the pits were of very recent origin i.e. earth had been lifted a day or two before the date of visit (Annexure-I, photo 4, 5, 6) marked as D in annexure- II.*

*On the eastern side of the sector dividing road a boundary wall was constructed in parts and it was also on the prohibited land in Rectangle No. 26 across Killa no. 2, 9 and 19 (Annexure-1, photo 7, 8, 9) marked as C in annexure-11.*

*The complainant also provided copies of complaints made by him to DTP, Sonipat on 16.03.2023 (Annexure-III), to SHO sector -27 Sonipat on 16.10.2023 (Annexure-IV), to Deputy Commissioner, Sonipat on 21.03.2024 (Annexure-V) and again to Deputy Commissioner, Sonipat on 07.05.2024 (Annexure-VI) to stop the construction and mining being done in violation of the HRERA orders. Hence the construction of roads, boundary wall and removal of earth were certainly on prohibited land and were of recent origin. The wall on prohibited land appeared to be about one year old and road in Killa number 24/15-16 was visibly 8-10 month old, while incomplete road in Killa number 24/24 was merely 15-20 days old. It can thus be concluded that all constructions and excavations as detailed above have been done after HRERA orders dated 27.09.2022."*



31. At the time of hearing, Id counsel of the complainants relied upon the report of local commissioner and stated that road has been constructed by respondent no.2 on land of respondent no.1 which implies that respondent no.1 is involved in said construction. Further he stated that respondent no.1 is taking a plea that boundary wall was constructed to stop illegal encroachments. Whereas, it is clear from the report that earth was removed from prohibited land and there is no explanation available with respondent no.1 for such removal. He argued that respondent no.1 had constructed the wall in prohibited land without taking any permission from this Authority. He requested to allow present complaint by awarding reliefs sought in favour of complainants. In reply Id counsel for respondent no.1 argued that respondent no.1 cannot be held liable for acts of the respondent no.2. Further she argued that intention to construct single brick boundary wall was to stop illegal encroachment and mining. Respondent no.1 has not alienated the prohibited land at all.

32. After going through relevant record and submissions of the parties, Authority observes that vide order dated 13.10.2021, passed in Complaint No. 865/2020, respondent no. 1 was specifically prohibited from alienating the land of the project in question for any purposes except for completion of the project. But respondent no. 1 did not act accordingly and carried out construction of road (respondent no.2) and wall on the prohibited land. Complainants by way of present complaint brought factum of violation of order



dated 13.10.2021 by respondents into notice of the Authority. Throughout the proceedings, it is the stand of the respondent no. 1 that no construction activity was carried out at the prohibited land. Respondent no. 2 vide an affidavit also ensured that no construction of sectoral road is further carried out. Vide order dated 27.09.2022 Authority had directed the respondents to maintain status quo of the land and not to proceed further for any construction activity. It is pertinent to mention here that during hearings of this case complainants after order dated 27.09.2022, again brought into notice of Authority that respondents are still carrying out construction activities on the prohibited land. In order to ascertain the exact position on ground, Authority vide order dated 22.04.2024 had appointed local commissioner, who has submitted its report in the registry. Relevant portion of the report has already been reproduced above in para no. 29.

33. Perusal of said report clearly establishes that respondent no.1 had raised boundary wall within the 25 acres of prohibited land without any prior permission from this Authority. Further, it has been provided in the report that earth from the prohibited land was removed recently like a day or two before the date of visit. In support, photographs are annexed as Annexure II with the report. In light of revealing facts and circumstances, it is proven on record that respondent no.1 has intentionally carried out construction of wall and removal of earth from the prohibited land. Authority vide order dated 02.05.2023, had already issued show cause notice to respondent no.1 under section 63 of RERA



Act of 2016. Section 63 of RERA Act is reproduced below for reference:

*"Section 63: "Penalty for failure to comply with orders of Authority by promoter: The Real Estate (Regulation and Development Act, 2016): If any promoter, who fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five per cent., of the estimated cost of the real estate project as determined by the Authority."*

34. Be as it may be, the stand of the respondent no. 1 that there is no indulgence of it, in alienation of prohibited land is proved otherwise from the report of local commissioner and photographs attached with it. Order dated 13.10.2021 was passed by Authority in complaint no. 865/2022 in favour of complainants-allotees so that their allotments/claim of allotment gets fructified and for that purpose respondent no. 1 was directed not to alienate the project land. Said order was passed keeping in light the broad perspective and intent of RERA Act, 2016 which is clearly highlighted in the preamble of the Real Estate (Regulation and Development) Act, 2016 which is as under.

*An Act to establish the real estate regulatory authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an*



*adjudicating mechanism for speedy dispute redressal and also to establish the appellate tribunal to hear appeals from the decisions, directions or orders of the real estate regulatory authority and the adjudicating officer and for matters connected therewith or incidental thereto;*

During the proceedings of present case, respondent no. 1 and 2 both were directed to maintain status quo till proper adjudication of complaint. But as per report of local commissioner, earth was removed from prohibited land recently. Respondent no. 1 initially failed to act in accordance with order dated 13.10.2021 passed in complaint no. 865-2020 pertaining to alienation of land and then also failed in maintaining status quo upon prohibited land. Prevailing circumstances clearly establishes that the respondent no. 1 has intentionally acted in violation of order dated 13.10.2021 by carrying out construction of wall and removal of earth from prohibited land and being continued to be at fault by not maintaining status quo during pendency of present complaint. Repeated as well as intentional defaults/non-compliance by respondent no. 1 has rendered itself liable to pay penalty under Section 63 of RERA Act, 2016. Under said section, penalty upto 5% of the estimated cost of project can be imposed upon defaulting promoter. Since the project of respondent is not a registered project so far and no cost estimates of the same are available with the Authority, in order to evaluate the penalty part, reference is made to registration no. HRERA-PKL-SNP-399-2023 for a project located in same sector as of present



complaint, i.e., Sector 10 and 11 of Sonipat for an area measuring 18.44375 acres. In said registration, estimated cost of project is 38 crores. Meaning thereby that cost per acres comes out to Rs 2.1 crores. For the present complaint, area involved is 25 acres, then total estimated cost comes out to Rs 52.5 crores (2.1x25 acres). Five percent of estimated cost comes out to 2.6 crores. However, taking a considerate view upon completion of project which is necessary for vested interest of complainant-allottes, the Authority hereby imposes penalty of 2% of estimated cost of project, which comes out to Rs 1.05 crores. Hence, for wilful and repeated non-compliance, penalty of Rs 1.05 crores (one crore and five lakhs rupees) is imposed upon respondent no. 1 under Section 63 of RERA Act, 2016.

#### **F. DIRECTIONS OF THE AUTHORITY**

35. Hence, the Authority hereby passes this order and issue following directions under Section 37 of the RERA Act, 2016:

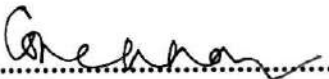
- (i) Respondent no. 1 is directed to pay the penalty amount of Rs 1.05 crores (rupees one crore and five lakhs) within a period of 90 days from uploading of this order. In case, said penalty is not deposited within the specified period, then office is directed to initiate a suo-motu proceedings against respondent no. 1.
- (ii) Respondent no. 1 and 2 are directed to maintain status quo and are prohibited from carrying out any construction activity on the



prohibited land till the execution of order dated 13.10.2021 passed in favour of complainants Further, respondent no. 1 shall paste order of the Authority pertaining to status quo on notice board on the site within a period of 15 days from uploading of this order.

(iii) Respondent no. 1 is directed to submit a proof of payment of Rs 20,650/- towards cost of appointment of Local Commissioner within 15 days of uploading of this order, failing which, suo-motu proceedings for recovery of said cost will be initiated by the Authority.

36. **Disposed of** in view of the above terms. File be consigned to the record room after uploading of the order on the website of the Authority.

  
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**CHANDER SHEKHAR**  
[MEMBER]

  
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**NADIM AKHTAR**  
[MEMBER]