

**BEFORE THE HARYANA REAL ESTATE REGULATORY AUTHORITY,
GURUGRAM**

Complaint no. : 3475 of 2023
Date of complaint : 16.08.2023
Order pronounced on: 20.11.2025

1. Tushar Bansal

Resident of: House No.5473, Sector-38, Chandigarh,
Haryana-160014.

Currently residing at: 6009, Moores Ave Newark,
California, United States.

2. Ankita Gupta

Resident of: Flat no. A901, Araya, Sector-62, Golf
Course Ext. Road, Gurugram, Haryana-122011.

Complainants

Versus

M/s Pareena Infrastructures Private Limited

Registered office: Flat no.2, Palm Apartments, Plot
no.13B, Sector-6, Dwarka, New Delhi-110075.

Corporate address: C7A 2nd Floor, Omaxe City
Centre Mall, Sohna Road, Sector-49, Gurugram,
Haryana-122018.

Respondent

CORAM:

Shri Arun Kumar

Shri Phool Singh Saini

Chairman

Member

APPEARANCE:

Ms. Ashima Sachdeva, Advocate

Shri Prashant Sheoran, Advocate

Complainants

Respondent

ORDER

1. The present complaint has been filed by the complainants/allottees under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of Section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be

responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made thereunder or to the allottees as per the agreement for sale executed *inter se*.

A. Unit and project related details

2. The particulars of unit details, sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

| S.No. | Particulars | Details |
|-------|--|---|
| 1. | Name and location of the project | "Micasa Apartments", Sector-68, Gurugram |
| 2. | Nature of the project | Residential Group housing colony |
| 3. | Project Area | 13.48275 acres |
| 4. | DTCP license no. | 111 of 2013 dated 27.12.2013 valid up to 12.08.2024 (area 10.12 acre) 92 of 2014 dated 13.08.2014 valid up to 12.08.2024 (area 0.64 acres) 94 of 2014 dated 13.04.2014 valid up to 12.08.2024 (area 2.73 acres) |
| 5. | Name of licensee | Pareena Infrastructure Private Limited and 2 others |
| 6. | RERA Registered/ not registered | Registered [For 12.25084 Acres] 99 of 2017 dated 28.08.2017 Valid up to 30.12.2022 (30.06.2022 plus 6 months Covid-19) |
| | Extension of registration | 12 of 2023 dated 19.06.2023 Valid up to 30.12.2023 |
| | Project Continuation- RC/REP/HARERA/GGM/ 99 OF 2017/ | 7(3)/47/2024/06 dated 23.07.2024 Valid up to 30.12.2025 |
| 7. | Unit no. | Unit no.-404, 4th floor & Tower-5 (As per page no. 12 of the complaint) |
| 8. | Unit area admeasuring | 1245 sq. ft. (carpet area) (As per page no. 12 of the complaint) |
| 9. | Allotment letter [in favor of Tushar Bansal] | 27.01.2016 (As per page no. 12 of the complainant) |
| 10. | Date of execution of flat buyer's agreement | Not executed |

| | | |
|-----|---|---|
| 11. | Possession clause | N.A. |
| 12. | Due date of possession | <p>27.01.2019</p> <p><i>"Fortune Infrastructure and Ors. vs. Trevor D'Lima and Ors. (12.03.2018-SC); MANU/SC/0253/2018 Hon'ble Apex Court observed that "a person cannot be made to wait indefinitely for the possession of the flats allotted to them and they are entitled to seek the refund of the amount paid by them, along with compensation. Although we are aware of the fact that when there was no delivery period stipulated in the agreement, a reasonable time has to be taken into consideration. In the facts and circumstances of this case, a time period of 3 years would have been reasonable for completion of the contract."</i></p> <p>In view of the above-mentioned reasoning, the date of the allotment letter dated 27.01.2016 ought to be taken as the date for calculating the due date of possession. Therefore, the due date for handing over the possession of the unit comes out to be 27.01.2019.</p> |
| 13. | Total sale consideration | <p>Rs.1,44,00,000/-</p> <p>(As per page no. 8 of the complaint)</p> |
| 14. | Amount paid by the complainant-allottee | <p>Rs.24,89,624/-</p> <p>[Rs.12,44,812/- by Tushar Bansal Plus Rs.12,44,812/- by Ankita Gupta]</p> <p>(As per receipt information on page no. 13-18 of the complaint)</p> |
| 15. | Occupation Certificate/ completion certificate | <p>03.06.2024</p> <p>[For Tower IV, V, VII (EWS), Community Building & Convenient Shopping]</p> <p>[as per Haryana, TCP Official website]</p> |
| 16. | Offer of possession | Not offered |
| 17. | Request letter by respondent to Ms. Ankita Gupta (For collecting allotment letter) | <p>05.09.2016</p> <p>(As per page no. 29 of the reply)</p> |
| 18. | No objection certificate (from Axiom properties - Channel partner) for the purpose of cancelling allotment of Ankita Gupta. | <p>16.04.2018</p> <p>(As per page no. 24 of reply)</p> |

| | | |
|-----|--|---|
| 19. | Approval Note (for transferring of amount paid by Ankita Gupta into Tushar Bansal unit) | 26.04.2018 (As per page no. 32 of reply) |
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B. Facts of the complaint:

3. The complainants have made the following submissions: -

I. That in the year 2014, the complainants were searching for a house with lush greens spaces, recreational opportunities, tranquil surroundings and other amenities. During this time, they came across the respondent's project, namely "Mi-casa Apartments", which was advertised in a very impressive and stellar way. The respondent claimed the project would meet all standards of ultra-modern lifestyle sensibilities and the flats would be built with impeccable precision and offer a serene living experience to the residents. The respondent further made the following assurances: -

- Delivery of possession within 3 years;
- Customer Centric Approach; and
- Legacy of fulfilling promises.

II. That believing the representations, promises and personal guarantees made by respondent to be genuine and by extending trust in the respondent company, the complainants decided to purchase a 2 BHK apartment in the project. The respondent then informed the complainants that the estimated total cost of the apartments would be Rs.1,44,00,000/- and that the complainants would be required to pay Rs.10,00,000/- as an advance payment/pre-booking amount, with the remaining payment to be made later in accordance with the demands of the respondent. Complainants asked for the necessary documentation the respondent told the complainants that the documents will be executed later because the project was still in the pre-launch phase and the complainants need not worry about the same.

- III. That after, the complainants made a payment of Rs.10,00,000/- towards advance payment/ pre-booking amount vide two separate cheques of Rs.5,00,000/- each bearing no. 319944 and 62248 dated 15.01.2014. That subsequently in May, 2014 the respondent made yet another demand for payment to the tune of Rs.8,00,000/- and the said payment was made by the complainants in a timely fashion vide two cheques of Rs.4,00,000/- each bearing no. 319951 and 14874 dated 02.05.2014.
- IV. That a period of more than 3 months had passed since the advance and pre-booking amount was paid; thus, the complainants inquired about an allotment letter and other necessary documentation as well as the start of the construction, and the complainants was assured by the respondent that the allotment letter would be provided shortly and the complainants would also be kept fully informed of the commencement of construction.
- V. That, the respondent made a new demand for payment to the tune of Rs.6,89,624/- which the complainants paid via RTGS on 18.10.2014. The complainants had a strong belief in the respondent company and was looking forward for the execution of the formal documentation as well as updates on the progress of the construction. However, to the utter dismay of the complainants, the respondent stopped communicating and providing updates, as a result, due to the lack of an update and official documentation, the complainants were very concerned and therefore, the complainants made numerous attempts to get in touch with respondent's officials, but to no effect. It was only after haphazardly attempting for a period of 2 years that an Allotment letter was granted to the complainants on 27.01.2016.
- VI. That, however, to the utter dismay of the complainants, the said allotment letter was only on the name of complainant no. 1 and the respondent completely overlooked including the complainant no. 2's name.

Additionally, as per the aforementioned allotment letter, the complainants were assigned unit number 404, which was a 3 BHK on the fourth floor in Tower 5 of the said project and had an approximate area of 1245 sq. ft. The complainants, however, had asked for a 2 BHK flat.

- VII. That the complainants received an incorrect allotment letter, which completely startled and alarmed them. The complainants promptly informed the respondent of this and asked the respondent to make the necessary modifications and share a revised allotment letter, but to no effect.
- VIII. That since then, the respondent has not provided the complainants with the revised allotment letter or any updates regarding the project's completion progress, and a builder buyer agreement has also not been executed. Despite the lapse of more than 9 years, the project is still far from completion. In addition, the complainants have received no information about the execution of a BBA despite numerous follow-ups regarding the same.
- IX. That as per Section 13(1) of the Act, 2016 the promoter should not accept a sum of more than ten percent (10%) of the cost of the apartment, plot, or building, as the case could be, as an advance payment or as application fee from the individual without first getting into a written agreement for sale. That the respondent raised a wrongful demand for payment even without there being a proper agreement to sell.
- X. The complainants decided to seek a refund and informed the respondent of their intention to do so after contacting the respondent numerous times for an update on the correction and issuance of a revised allotment letter, execution of the BBA, and completion of the project, and the respondent continued to be unresponsive. However, the respondent flatly refused to provide a refund of money in the event the complainants would want to

revoke the booking. That the complainants felt extremely helpless as a result of the respondent leaving them hanging by a thread since the complainants invested their hard-earned money into the project of the respondent.

- XI. That the complainants have till date have paid an amount of Rs.24,89,624/- but has not been provided any formal documentation barring the allotment letter and also not received the possession even till date despite a lapse of more than 9 years. By not honoring the promises made by the respondent the respondent has caused the complainants grave mental agony, financial suffering and harassment. The respondent has cheated the complainants in the most deceiving manner.
- XII. That the sole intention of the respondent, from the very beginning was to induce its customers and to make wrongful gains at the expense of the complainants. That for personal gains, the respondent has caused the complainants grave mental agony and have made the complainants suffer exceedingly owing to the illimitable financial burden they have been placed with.

C. Relief sought by the complainant:

4. The complainants have sought following relief:
- Direct the respondent to refund of the entire paid-up amount of Rs.24,89,624/- along with RERA rate of interest per annum from the date of first payment i.e. January 2014 till its realization.
5. On the date of hearing, the authority explained to the respondent/ promoter about the contraventions as alleged to have been committed in relation to Section 11(4)(a) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondent.

6. The respondent has contested the complaint by filing reply on the following grounds: -

- I. That the present complaint is not maintainable in the eyes of law. That the present complaint has been filed allegedly by Tushar Bansal and Ankita Gupta. The cause of action as alleged by the complainants, it is legally not maintainable file a single complaint by 2 different person having different cause of action. It is submitted that in the complainant itself, complainants have alleged that they have booked a single unit and respondent allotted unit in favour of complainant no. 1 only and not in favour of complainant no. 2. Since the unit was allegedly allotted in favour of complainant no. 1 only then present complaint can be filed by complainant no. 2, jointly with complainant no. 1. It is submitted that complainants never approached the respondent to book a single unit and for the same reason no such document was annexed by the complainants along with their complaint which proves the fact that they have requested for a single unit, jointly. Even otherwise present complaint is not maintainable in the eyes of law as the same has not been filed by complainant no. 1, rather the same has been filed by complainant no. 2 on the basis of a power of attorney attached with the complaint on page number 19. It is submitted that even the said power of attorney is legally not valid and the complainant no. 2 has no right to file any complaint on behalf of complainant no. 1. It is submitted that a bare look at the said power of attorney, reveals that the complainant no. 1 is resident of United States and legally, if a person residing out of India, then in order to appoint a power of attorney, then in that case said power of attorney must be executed through proper channel. It is submitted that in such cases the executant must execute a power of attorney which needs to be duly executed by concerned Indian Embassy situated in the relevant country. That thereafter said power of attorney needs to be verified by the beneficiary through DC of local jurisdiction and said DC verified it through the Indian Embassy of the concerned country in order to authenticate the

power of attorney. That thereafter concerned Tehsildar endorsed said power of attorney and the beneficiary shall affix appropriate stamp duty on the same and only thereafter a power of attorney can be said to be legally valid power of attorney. However in the present case apparently no such procedure was followed by the complainant no. 2, there is legally present complaint is not maintainable in the eyes of law.

- II. That as far as complainant no. 2 is concerned, even she has no right to file the present complaint as she failed to prove herself allottee of the respondent. It is submitted that except few payment receipts in favour of complainant number 2, she had not affixed any documentation executed with the respondent, which in itself proves the falsification of pleadings by her. It is submitted that even the complainant no. 2 has no right to file the present complaint. That is the present complaint is legally not maintainable in the present form, thus the same deserves to be dismissed.
- III. That without prejudice to the rights of the respondent and without admitting claim of complainant's, it is submitted that even otherwise the claim sought in the present complaint is barred by law of limitation. It is submitted that in the present complaint complainant has alleged that when the respondent issued an allotment letter on 27.01.2016 in favour of complainant no. 1, then as per the pleadings of complainant's they have objected the same and not admitted it to be correct and stated that an incorrect allotment letter has been sent by the respondent. It is submitted a cause of action, if any, in favour of complainants would have been accrued on January 2016 and the present complaint has been filed by the complainants after a lapse of 8 years. That in whole of the complaint, the complainants, nowhere explained the delay in filing of present complaint and that too for a period of 8 years. It is submitted that such persons should not be allowed to file such complaints. It is submitted that it is settled law.

If a person sleeping over their rights, then they cannot claim the same after a lapse of a huge gap. It is submitted that for the same purpose law of limitation is implemented in the country. That not even a single line was mentioned by the complainants as to why they have not approached any authority or a court of law. If the respondent have issued an incorrect allotment letter in favour of complainant no. 1. It is submitted that before the advent of authority, allottees could have approached consumer forum, civil court etc. Yet present complainants chose not to file any complaint or suit before any authority or court of law, in itself proves falsification of their pleadings and the fact that the complaint filed before the Authority is also barred by law of limitation and for the same reason no complaints were ever filed before any court of law ever. It is submitted that the complainants have no right to seek refund before the authority at this stage.

- IV. That the complainants have concealed several facts from the Authority in order to gain unlawfully, at the cost of respondent. It is submitted that in the year 2014 complainants approached the respondent separately for booking of a unit in its project namely Coban as it was launched recently after sanctioning of building plans on 25.07.2013. That after being heard of project of the respondent complainant separately approached the respondent and negotiated for booking of the unit in the project namely Coban and paid initial amount for their booking. However after payment of said amount. Both the complainants stopped contacting the respondent for the reason best known to them. That since the complainants have paid some amount to the respondent, the respondent issued payment receipt to both the complainants and same has been annexed by the complainants along with their complaint. However, on none of the receipt, it has been mentioned that same has been issued against the project micasa of the

respondent. Since the complainants were not sure as to whether they want to continue with the project Coban or not they initially made payment but could not able to make up their mind to continue with the project.

- V. That after some time respondent started another project, sector 68 with the name "Micasa" and building plan approved on 28.04.2015. That after acquiring the knowledge of said project of the respondent and seeing its future prospects, both the complainants separately requested the respondent to allot the unit in the newly launched project and requested to adjust the money paid by them earlier in the newly launched project at sector 68. It is submitted that since from past 2 years, the complainants were not able to make up their mind as to whether they want to continue with the project coban or not and for the same reason no unit was allotted in favour of both the complainants till 2016, however, when the complainants requested to allot to different units in their favour, respondent accepted their demand and in view of the same allotted the unit in favour of complainant no. 1 vide allotment letter dated 27.01.2016.
- VI. That the complainant no. 1 approached and took allotment letter of its unit from the office of respondent. However, when the complainant number 2 was requested by the respondent to take allotment of her unit in newly launched project at sector 68, she failed to come and took allotment of her unit. That said letter in itself clarifies the effect that no single unit were never meant to be allotted to both the complainants and accordingly present complaint is not maintainable in the eyes of law. The complainant no. 2 never approached the respondent to take her allotment, thus there is no fault on the part of respondent, as alleged by the complainants the present complaint. However, without prejudice to the rights of the respondent, complainants that after receiving allotment letter in year January 2016, they have objected the same and stated that it is an incorrect

allotment letter, then as discussed above, the complainant should have raised the objections before the respondent. However, in the present complaint complainants have not annexed any such documents, wherein they have raised any such objections. However, for the purpose of limitation. It is submitted that if, as alleged by the complainants, the allotment letter is incorrect in the year 2016 itself, then they should have filed a case within 3 years of said allotment letter. However, admittedly present complaint has been filed in the year 2023, making itself completely barred by the law of limitation. Since the matter in issue pertains to year 2014 and currently we are living in a year 2024 i.e., 10 years have passed since the transactions were occurred, the documents pertaining to request of complainants qua changing of the unit from Coabn to Micasa is not traceable at present and the respondent is trying hard to trace out the same and same will be produced before the honourable authority, if the same is traced out. That the complainant is trying to take benefit of the lapse of 10 years and apparently missing of documents is quite natural in such cases. It is submitted that the respondent is only able to trace out a few documents pertaining to the matter in dispute and even as per those documents available. It is clear that the complainants never approached the respondent for allotting a single unit. After passing of 2 years both the complainants approached the respondent through a broker namely Axiom Properties and requested to cancelled the unit of complainant number 2 i.e., Mrs Ankita Gupta and adjusted the amount of unit of complainant number 2 in the unit of complainant no. 1. That thereafter the said broker approached Mr Amit Soni, senior manager CRM in order to forward the request to the managing director of the respondent company. It is submitted that said Amit drafted approval note in this regard and got it checked by Mrs. Radhika Sehdev and thereafter when the said Amit

approached the managing director of the respondent company, the request of complainants was not approved by the managing director. It is submitted that the said act of the complainant was only to defraud the respondent and, in order to create of false cause action by getting their funds merged in a single unit. Even thereafter 5 years have been passed still the complainants fails to initiate any case against the respondent, for the reason that the new that they are at fault and they themselves not approached the respondent. The complainants have failed to perform their part and fails to execute a builder buyer agreement in due time and now after lapse of more than 8 years filed present false and frivolous complaint.

VII. That keeping in view of the above stated facts and circumstances, it is crystal clear that present complaint is not maintainable in the eyes of law and the complainants have no right to seek refund in any manner. That present complaint is liable to be dismissed as law of limitation, law of contract as well as present complaint is not maintainable for the misjoinder of parties and due to illegal power of attorney and having no cause of action. That the complainants are estopped from filing the present complaint by his own act and conduct, admission, omission, laches and acquiescence. That the complainants have not come with clean hands before this Authority and have concealed the true and material facts. That the complainant has made blatantly false allegations in the complaint.

7. Copies of all the relevant documents have been filed and placed on record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of those undisputed documents and oral as well as written submissions made by the parties.

E. Jurisdiction of the Authority

8. The Authority observes that it has territorial as well as subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

9. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Gurugram shall be entire Gurugram for all purpose with offices situated in Gurugram. In the present case, the project in question is situated within the planning area of Gurugram District. Therefore, this authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject matter jurisdiction

10. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11....

(4) The promoter shall-

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

11. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter leaving aside compensation which is to be decided by the adjudicating officer if pursued by the complainant at a later stage.

F. Finding on the objection w.r.t maintainability of complaint.

12. The respondent-promoter raised as issue of maintainability of the present complaint on ground that the present complaint filed by the complainants is with respect of two separate bookings.

13. Upon this, the Authority observes that the complainants herein applied individually for booking of two different units 2BHK in the project “Mi-Casa”, situated at Sector-68, Gurugram, being developed by the respondent and the complainant no.1 (Tushar Bansal) paid Rs.5,00,000/- via cheque bearing no.319944 on 15.01.2014, Rs.4,00,000/- via cheque bearing no.319951 on 02.05.2014 and Rs.3,44,812 via RTGS on 18.10.2014, total amounting to Rs.12,44,812/- against his booking (PI-049/2014) and the complainant no.2 (Ankita Gupta) also paid Rs.5,00,000/- via cheque bearing no.62248 on 15.01.2014, Rs.4,00,000/- via cheque bearing no.14874 on 01.05.2014 and Rs.3,44,812 via RTGS on 18.10.2014, total amounting to Rs.12,44,812/- against her booking (PI-050/2014). The total amount paid to the respondent by the complainants against their booking is Rs.24,89,624/-. Thereafter, on 27.01.2016, the complainant no.1 was allotted a unit bearing no.404, on 4th Floor in Tower-5 having super area 1,245 sq. ft. (approx.).
14. It is contended by the respondent that the complainant no.2 never came to the office of the respondent-promoter to collect the allotment letter against the booking application form. For this purpose, the respondent-promoter sent a letter dated 05.09.2016 to complainant no.2, requesting her to collect the allotment of flat in “Mi-Casa”. However, the complainant no.2 even after receipt of numerous reminders and the letter dated 05.09.2016, did not come forward to collect the allotment letter.
15. Thereafter on 16.04.2018, the respondent received an “no objection certificate” from Axiom Properties (channel partner), through which the complainant no.2, requested to cancel the booking (PI-050/2014) and transfer/ adjustment of her paid-up amount into the booking of Mr. Tushar Bansal (PI-049/2014). Upon this, the respondent has initiated the transfer process but the managing director (Mr. Virender Verma) did not approve the

same. Therefore, the paid-up amount of complainant no.2 was never transferred or adjusted into the booking of the complainant no.1.

16. In the present complaint, both the complainants have sought refund of amount of Rs.24,89,624/- i.e., amount paid by the two individuals against the two separate bookings.
17. In respect of this, it is important to first see the definition of allottee as per Section 2(d), and the same is reproduced as under:

Section 2. Definitions:

(d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

18. Further, it logically follows that each booking has in individual/specific attributes and relief has to be decided individually on the merits of each case and the facts of each booking may vary and lead to different conclusions. The view of the Authority is further strengthened by the fact that wherever it has been felt by the legislature that the definition of the word allottee may be include more than one unit, at specific provisions has been made under the explanation of Section 14 and 15 of the Act in which provided as under:

Explanation.— For the purpose of this clause, the allottee, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, etc., by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.

19. The relief in the present complaint has been sought under Section 11(4)(a) of the Act, 2016 and therefore, the present complaint is not maintainable as the instant complaint has been filed in respect of two different bookings which needs to be adjudicated separately in respect of their specific attributes.

20. The complaint stands disposed off with the liberty to the complainants to file a fresh separate complaint for each individual bookings along with their booking forms, allotment letter, details of payment made or any other document in respect of their claim against each unit respectively.
21. File be consigned to registry.



(Phool Singh Saini)
Member



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 20.11.2025



HARERA
GURUGRAM