

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 324 OF 2025**

Col (Retd) N Thiagarajan

..Appellant

Versus

Ram India Mittal Township Ltd & Anr

...Respondents

Adv Manjusha Kudre, for the Appellant.

CORAM: N. J. JAMADAR, J.

DATED : 12th SEPTEMBER 2025

P.C.:

1. This Appeal under Section 58 of the Real Estate (Regulation and Development) Act, 2016 (“the Act of 2016”), is directed against a judgment and order dated 23rd February 2023 passed by the Maharashtra Real Estate Appellate Tribunal, Mumbai, in Appeal No. U-3/2021, whereby the Appeal preferred by the Appellant-Complainant came to be dismissed by affirming an order dated 7th December 2020 passed by the Maharashtra Real Estate Regulatory Authority, Mumbai (“MahaRERA”) in Complaint No. SC10002220, thereby declining to issue directions to the Respondent-Promoter to register the project, “Life Park” as an ongoing project under the provisions of the Act of 2016.

2. By the said order dated 7th December 2020, the Chairperson, MahaRERA dismissed the complaint filed by the Appellant observing

inter alia that the project “Life Park”, was completed prior to the commencement of the Act of 2016 and the possession of the apartments therein was handed over to majority of allottees and thus the project has become an occupied building.

3. The Appellate Tribunal concurred with the view of Chairperson, MahaRERA. The Appellate Tribunal was of the view that the said project was covered by the Explanation to Section 3 of the Act of 2016.

4. Ms. Manjusha Kudre, the learned Counsel for the Appellant would urge that the Authority as well as the Appellate Tribunal committed grave error in law in not correctly appreciating the concept of “ongoing project” under Section 3 of the Act of 2016. Admittedly, the completion certificate had not been issued before the commencement of Act of 2016. Therefore, the promoter was enjoined to register the said project as an ongoing project.

5. I am unable to persuade myself to agree with the submissions of Ms. Kudre. The material on record indicates that the project “Life Park” was an occupied building. The Authorities have found that more than 200 allottees had been residing in their respective apartments since the year 2013. Under the Explanation to Section 3 of Act of 2016, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under the Act of 2016 for each phase

separately. What the Authorities have found, and rather objectively, is that the project in question was already developed before the Act of 2016 was brought into force. Subsequently, the promoter obtained registration of another project “Cleveland Park” as a part of the phase-wise development. The principal grievance of the Appellant-Complainant appeared to be in regard to the failure to provide the amenities and for that purpose the Appellant had already instituted proceedings before the Consumer Forum and orders were passed therein. No other allottee, except the Appellant, had made any grievance with regard to the project in question.

6. Since the aforesaid findings of facts are based on objective material and the project “Life Park” appeared to be part of the phase which was developed before the Act of 2016 came into force, this Court does not find that any substantial question of law arises for determination in the Second Appeal. Resultantly the Appeal fails. Hence, the Appeal stands dismissed.

[N. J. JAMADAR, J.]