

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

Virtual Hearing held through video conference as per
MahaRERA Circular No.: 27/2020

1. COMPLAINT NO. CC001000000020208

RAJENDRA M SONAR ...COMPLAINANT
VS

M/S GIRIRAJ ENTERPRISES ...RESPONDENT
a/w

2. COMPLAINT NO. CC001000000060337

ASHOK KUMAR GUPTA ...COMPLAINANT/S
VS

GIRISH MADHAV MALPANI ...RESPONDENT
a/w

3. COMPLAINT NO. CC001000000060342

RAJENDRA SONAR ...COMPLAINANT
VS

GIRIRAJ ENTERPRISES ...RESPONDENT

MAHARERA PROJECT REGISTRATION NO. P51600008125

Coram: Manoj Saunik, Chairperson, MahaRERA

Complainants at sr. no. 1 to 3 were present in person.

Advocate Parimal Deshmukh and Advocate Sanjana Gehlot present for respondents
at sr.no 1 to 3.

Order

May 15th, 2025

(Last Date of hearing – 29.04.2025 the matters were reserved for order)

1. The complainants are home buyers / allottees within the meaning of Section 2(d) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the “Act”) of Real Estate Regulatory Authority (hereinafter referred to as the “RERA”) and the respondent is the promoter/ developer within the meaning

of Section 2(zk) of the Act. The respondent is registered as the Promoter of the project namely “MALPANI SAFFRON BUILDING NO 2” under section 5 of the Act bearing **MAHARERA Project Registration No. P51600008125** (hereinafter referred to as the “**project**”).

2. On the MahaRERA project registration webpage the proposed and revised date of completion is mentioned as 31.12.2017. It is observed that the promoter has uploaded occupation certificate dated 30.06.2017 in form 4 tab of the project webpage.
3. The complainants are seeking the following reliefs:

Sr. No.	Complaint No.	Reliefs sought
1.	CC001000000020208	<i>Why not new construction should be demolished as it is without the consent of existing residents causing lot of inconvenience to 8th floor residents?</i> <i>Get clarification from the Executive Engineer, Town Planning, Nashik Municipal Corporation why the corporation agreed for such revised plan and construction without looking into concerns of the people and why completion certificate of the project is linked to old buildings which are part of the project. Have they visited the flats of the people who stay on 8th floor? If so, when?</i> <i>Get clarification from the fire department of the corporation a. When these new regulations came into picture? whether new regulation is mandatory for 5-6 years old buildings at the cost of inconvenience to existing residents? b. Why not existing refuge flat could be converted into the refuge area (for example, breaking outer walls of the flat, all flats have balconies opening in open area, easily accessible to fire ladders in case of emergency) required for new regulation without causing great inconvenience to the existing flat owner? Please seek independent expert's opinion on this.</i>
2.	CC001000000060337	<i>In view of the facts mentioned above, the complainant/applicant prays for the following relief(s)/compensation(s) 1. To order for demolishing the constructed cantilever refuge terrace and bring back the earlier status of building. Since this was constructed after about 5 years of building completion (BCC already received) and not a legal construction since consent from affected residents or any society member was taken. 2. To compensate adequately to all affected flat owners of 8th floor complainants. Since this construction has disturbed the Safety, security and privacy of these families apart from blocking light, air and serene outside view. This construction has also devaluated our flats value therefore considering all these issues min Rs 20 lakh shall be paid to each complainants & other affected parties</i>
3.	CC001000000060342	<i>In view of the facts mentioned above, the complainant/applicant prays for the following relief(s)/compensation(s) 1. To order for demolishing the constructed cantilever refuge terrace and bring back the earlier status of building. Since this was constructed after about 5 years of building completion (BCC already received) and not a legal construction since consent from affected residents or any</i>

		society member was taken. 2. To compensate adequately to all affected flat owners of 8th floor complainants. Since this construction has disturbed the Safety, security and privacy of these families apart from blocking light, air and serene outside view. This construction has also devaluated our flats value therefore considering all these issues min Rs 20 lakh shall be paid to each complainants & other affected parties..
--	--	--

4. All the captioned complaints were heard by this Authority on 29.04.2025 wherein the following roznama was recorded: (listed at sr. nos. 1 to 3)

“Heard both parties. The matters are reserved for orders.”

5. The brief facts in the complaints are as follows:

SR. NO.	COMPLAINT NOS. / DATE OF FILING	FLAT NO.	DATE OF AFS ¹	POSSESION AS PER AFS	TOTAL CONSIDERATION (INR) Agreement Value	TOTAL AMOUNT PAID (INR)
1.	CC001000000020208 14.10.2021	D -802	10.09.2020	Not provided	52,32,000/- (as per AFS)	52,32,000/- (as per AFS)
2.	CC001000000060337 09.07.2023	C-802 and C -804 (As per complaint)	Not provided	Not provided	Not provided	Not provided
3.	CC001000000060342 26.07.2023	D -802	10.09.2020	Not provided	52,32,000/- (as per AFS)	52,32,000/- (as per AFS)

6. The common submissions of the complainants at sr. nos. 1 to 3 are as follows:

- The complainants purchased their respective flats in the promoter's project and that the respondent carried out unauthorized structural modifications by converting designated refuge areas into residential flats for the purpose of commercial sale.
- It is submitted that the refuge area has been constructed using substantial metal materials in immediate proximity of the complainants' premises. This construction has given rise to serious concerns regarding privacy and security, while also obstructing natural sunlight and ventilation.

¹ AFS-Agreement for Sale.

- c) That the plan about the new refuge area was neither disclosed to us nor was mentioned in the agreement when we registered and signed the agreement of the flat.
 - d) These changes were literally done forcibly by just sending an email saying that it is required as per new fire and safety guidelines to get completion certificate for the project without consent of the residents and 8th floor 3BHK flat owners who got affected.
7. From the above facts and the submissions, the issue that need to be considered is whether the complainants at sr. no. 1 to 3 are entitled to seek any reliefs under the Act?
8. Upon perusal of the complaints registered at sr. nos. 1 to 3, it is observed that the complainants are seeking reliefs inter alia for (i) demolition of construction allegedly undertaken in the designated refuge area, and (ii) compensation in relation thereto. However, it is imperative to note that the reliefs sought fall outside the jurisdiction conferred upon this Authority under the Act. The prayers for demolition of existing structures based on alleged unauthorized construction in refuge areas pertain to issues involving structural compliance and municipal regulations, which are within the exclusive domain of the competent planning and municipal authorities, and not within the adjudicatory scope of this Authority. Thus, the issue at para-no. 7 is answered in negative for the complainants at sr. no. 1 to 3 for the reason stated hereinabove. Accordingly, in view of the absence of jurisdiction under the Act, the complaints filed at sr. nos. 1 to 3 are held to be not maintainable and are hereby dismissed. No order as to cost.

MANOJ
SAUNIK

Digitally signed by
MANOJ SAUNIK
Date: 2025.05.15
14:01:15 +05'30'

Manoj Saunik
Chairperson, MahaRERA