



LEGAL ALERT

MAHARERA TO WITHDRAW IT'S ORDER APROPOS CO-PROMOTERS

The Hon'ble Bombay High Court, on 14th November 2017, dismissed off Writ Petition Lodging No. 2023 of 2017 filed by the petitioners

Ismail Ibrahim Patel and Ors. **Vs.** State of Maharashtra and Ors.

Synopsis of the Judgement

1. The petitioner questioned and challenged the validity of the Office Order passed by the Secretary, MahaRERA dated 11th May, 2017.
2. In the impugned order, MahaRERA had observed that since the term "Co-Promoter" is not defined in the Act, Rules or Regulations, it was necessary to define the term "Co-Promoter" and therefore in exercise of the powers vested in MahaRERA, definition of "Co-Promoter" was notified.
3. The Counsel for the petitioner submitted that RERA provisions do not define the term "Co-Promoter"; instead the term defined by the provisions of RERA is under Section 2(zk) which refers to "Promoter".
4. The Counsel, further submitted that under Regulation 38, the MahaRERA authority is not empowered to coin a new definition of "Promoter" and notify the same in absence of statutory provisions under RERA.
5. Further, the Counsel for the petitioner stated that, MahaRERA is not empowered to interpret the provisions of Central enactment in defining the term "Co-Promoter" and such a definition would add to confusion which is not permissible.
6. **On behalf of MahaRERA, the Secretary, MahaRERA Dr. Vasant Prabhu filed affidavit-in-reply where MahaRERA decided to undertake following exercise:**
 - a. To supercede the impugned Office Order dated 11.05.2017 bearing No. Maha-RERA/LA/32/2017 by withdrawing the same and replacing the same appropriately with effect from the same date.
 - b. To complete such action within expeditiously as possible, preferably within a period of three weeks from the date of final disposal of this Writ Petition.
 - c. Such an exercise shall cover and govern all the steps taken by all concerned in pursuance and in accordance with as also in response to the impugned Order dated 11.05.2017 bearing No. Maha-RERA/LA/32/2017.

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