



**KERALA REAL ESTATE REGULATORY AUTHORITY
THIRUVANANTHAPURAM**

Present: Sri. P.H. Kurian, Chairman,
Smt. Preetha P. Menon, Member.

Complaint No. 273/2022

Dated 27th January, 2025.

Complainant

Diana Peter,
Julie Land, Mudiyacode, Cherunniyoor. P.O.,
Varkala, Thiruvananthapuram – 695 242.

Now residing at Flat No. 33G, Nikunjam Apartments,
Kazhakkuttam, Thiruvananthapuram.

[By Adv. Gokul Babu. S]

Respondents

1. Nikunjam Constructions Private Limited,
Indraprastham, T.C. 4/2554-3,
Pattom- Kowdiar Road, Kowdiar P.O.,
Thiruvananthapuram – 695 004.
Represented by its Managing Director,
Krishnakumar.



2. S. Krishna Kumar, Managing Director,
Nikunjam Constructions Private Limited,
Indraprastham, T.C.4/2554-3, Pattom-Kowdiar Road,
Kowdiar P.O., Thiruvananthapuram – 695 004.

[By Adv. K. Muraleedharan Nair]

ORDER

1. The Complainant is one of the land owners with whom the Respondents entered a joint venture agreement to develop the real estate project named “Nikunjam I Park” at Kazhakkuttom village, Thiruvananthapuram. The 1st Respondent is the promoter and the 2nd is the Managing Director of the 1st Respondent Company. The Complainant also executed a Power of Attorney dated 04.02.2008 in favour of the Respondents and later it was revoked on 09.08.2016. It was alleged that even after the Power of Attorney is revoked the Respondents are illegally marketing and selling the apartments. The above Complaint was filed seeking following reliefs:

- (i) *To restrain the Respondents to exercise any rights on the basis of power of Attorney executed on 27.02.2008 since the same is revoked.*
- (ii) *To restrain the Respondents from any marketing or sale of property or apartment to buyers.*



(iii) *To conduct investigation on Respondents and call for information on alleged actions as per Section 35 of the Real Estate (Regulation and Development) Act, 2016.*

2. The Respondents/promoters filed petition, challenging the maintainability of the Complaint. Thereupon, the Complaint filed statement of objection to the petition challenging maintainability and filed documents as IA No 140/2023. This Authority, on receiving Complaint No. 262/2021 filed by one of the allottees of the same project against the Respondents, initiated Suo-moto proceedings vide file K-RERA No. T1/3284/2021 for registering the project under Section 3 of the Real Estate (Regulation and Development) Act, 2016 [herein after referred to as 'the Act, 2016'] issuing show cause notice to the Respondents/promoters. After examining the explanation submitted by the Promoters of the project and documents placed on record and also hearing the parties, this Authority found that the project in question is an ongoing project required to be registered under the Act, 2016. Hence as per order dated 24.07.2023, in Suo-moto proceedings K-RERA No. T1/3284/2021, this Authority has issued direction to the promoters of the project "Nikunjam I Park" to register their project before this Authority within 30 days of receipt of the said order. The Respondents/promoters challenged the said order in appeal before the Hon'ble Kerala Real Estate Appellate Tribunal and the Appellate Tribunal vide order dated 13.11.2024 in REFA



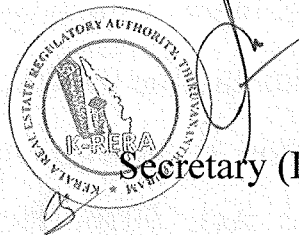
No. 49 of 2023, has set aside the said order. As per the order dated 13.11.2024, the Hon'ble Tribunal found that the project in dispute is not an ongoing project liable to be registered under Section 3 of the Act, 2016 and it is a finished and completed project before the coming in to force of Section 3 of the Act, 2016 on 01.05.2017.

3. On the basis of the judgement of the Hon'ble Appellate Tribunal, this Authority lost jurisdiction to entertain the above Complaint No. 273/2022 and hence it is hereby dismissed.

Sd/-
Preetha P. Menon
Member

Sd/-
P. H. Kurian
Chairman

/True Copy/Forwarded By/Order/


Secretary (Legal)