

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

MSA No. 76 of 2025

**(MADHYA PRADESH REAL ESTATE REGULATORY AUTHORITY Vs SIDDHARTHA
DOMICILE CREATION PVT. LTD)**

MSA/87/2025, MSA/90/2025, MSA/9/2026

Dated : 06-04-2026

*Shri Ajay Gupta – Senior Advocate (appearing through V.C.)
assisted by Shri Aryan Gupta – Advocate for the appellant / M.P. Real
Estate Regulatory Authority in all the Misc. Second Appeals.*

*Shri Veer Kumar Jain – Senior Advocate assisted by Shri Namit Jain
– Advocate for the respondents in MSA Nos.76/2025.*

*Shri Kanishka Gupta – Advocate for the respondent in MSA
No.09/2026.*

*Shri Pankaj Chandra Bagadiya - Advocate for the respondent in
MSA No.87/2025.*

Shri Pradyumna Kibe – Govt. Advocate for the State.

01. The present miscellaneous second appeals are filed under Section 58 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "Act, 2016") being aggrieved by the orders passed by the M.P. Real Estate Regulatory Tribunal, Bhopal, whereas the appeals filed by the respondents have been allowed and the matters have been remanded back to the 'Authority' for adjudication afresh.

02. The respondents raised preliminary objection regarding maintainability of the second appeals at the instance of M.P. Real Estate Regulatory Authority (hereinafter referred as "Authority"). It is contended by the respondents that the appellant, being an adjudicatory authority cannot maintain the appeals under Section 58 of Act, 2016.

03. *Per contra*, Shri Ajay Gupta, learned senior counsel for the

appellant / Authority argued that the appeals are maintainable considering various powers and the duties conferred on the Authority under the Act, 2016. Thus, the question which arises for consideration is "Whether an adjudicatory authority like RERA can challenge an order of a Higher Forum, setting aside its own decision and can maintain the appeal under Section 58 of the Act, 2016 ?"

04. Learned senior counsel for the appellant argued that under the scheme of the Act, 2016, authority discharges three types of functions i.e. *i.* Administrative. *ii.* Regulatory. & *iii.* Adjudicatory. He submits that so far as the exercise of power as adjudicatory authority is concerned, Authority may not file an appeal, but in respect of the powers which are regulatory in nature and if the order is passed against authority, it can maintain an appeal under Section 58 of Act, 2016 as the authority would be "person aggrieved". He further argued that word "person aggrieved" is not defined under the Act, 2016, but as under Section 2(zg), word "person" is defined, which is inclusive definition and the same has already been reproduced in the preceding paragraph. He submits that the authority would be covered under the said definition. He also referred the definition of "company" under Section 2(o) of Act, 2016, which is reproduced as under:

- (o) "**company**" means a company incorporated and registered under the Companies Act, 2013 (18 of 2013) and includes,-
 - (i) a corporation established by or under any Central Act or State Act;
 - (ii) a development authority or any public authority established by the Government in this behalf under any law for the time being in force;

05. He further submits that the Authority is a public authority established under the law and the definition of word "person" is inclusive definition, which is wide enough to include the authority (RERA). In support of his submission, learned senior counsel for the appellant placed reliance on the following judgments passed by the

Hon'ble Apex Court and various High Courts : *Gujarat Real Estate Regulatory Authority V/s Satyam Infracon [Civil Appeal No.1 of 2020]*, *Satyam Infracon V/s Gujarat Real Estate Regulatory Authority [Special Leave to Appeal (C) No(s).5136/2021]*, *M/s. Newtech Promoters and Developers Pvt. Ltd. V/s State of UP & Ors. Etc. [Civil Appeal No(s).3711-3715 of 2021]*, *Neelkamal Realtors Suburban Pvt. Ltd. and Anr. V/s Union of India and Others [2017 SCC OnLine Bom 9302]*, *Airports Economic Regulatory Authority of India V/s Delhi International Airport Limited and Others [(2024) 15 Supreme Court Cases 345]*, *Bar Council of Maharashtra V/s M.V. Dabholkar and Others [(1975) 2 Supreme Court Cases 702]*, *Real Estate Regulatory Authority and Ors. V/s D.B. Corp. Limited and Ors. [MANU/NL/0961/2023]*, *Shri Ji Builders and Developers Partnership Firm V/s Madhya Pradesh Real Estate [Writ Petition No.19852 of 2023 decided on 23.09.2024 by the High Court of M.P. at Jabalpur]*, *Delhi Development Authority V/s Bhola Nath Sharma (Dead) by L.Rs. and others [Civil Appeal Nos.10326-10327 of 2010]*, *Thalappalam Ser. Coop. Bank Ltd. and others v/s State of Kerala and others [Civil Appeal No.9017 of 2013]* and *Central Public Information Officer, Supreme Court of India V/s Subhash Chandra Agrawal [Civil Appeal No.10044 of 2010]*.

06. Shri Veer Kumar Jain, learned senior counsel and Shri Pankaj Chandra Bagadiya, learned counsel for the respondents argued that appeal is not maintainable at the instance of Authority. They argued that the Authority is not covered within the definition of "person" or "person aggrieved". They further argued that the definition of "person" cannot be interpreted wide enough to include even an 'authority', who had passed an order and whose order has been set aside by the appellate authority. The definition of "person" is inclusive as well as restrictive. His

submission is that there cannot be any distinction of regulatory and adjudicatory powers. There are certain functions under the Act that are statutory, regulatory and adjudicatory function, but as per the doctrine of judicial discipline, an authority who discharges such powers cannot maintain an appeal when its order has been set aside by Appellate Forum. He further submitted that there are certain enactments where an authority has been conferred power to defend his order, but not in the Act, 2016. He distinguished the judgments referred by counsel for the petitioner on the ground that the facts and provisions of the enactments in the aforesaid cases were different and as per the law of precedent, a judgment is not binding but a *ratio decidendi* is a law.

07. In addition, they submitted that in Section 88 of the Act, word "any person aggrieved" is used and the expression "any person aggrieved" has to be interpreted strictly as per the provisions of the Act. He submitted that in Section 31, expression "any aggrieved person" is used and in Section 44 and 43, words "any person aggrieved" are used and, therefore, under Section 58, the interpretation to expression "any person aggrieved" has to be given to the persons who are referred in the other provisions of the Act. The same cannot be widely interpreted to include even an authority to defend its decision after being set aside by the higher forum that would lead to absurdity and would be contrary to the judicial discipline.

08. In support of their submission, learned counsel for the respondents have placed reliance on the following judgments : ***Regional Transport Authority V/s Sri Ram [Air 1974 All 140], Mohtesham Mohd. Ismail V/s Spl. Director, Enforcement Directorate & Anr. [(2007) 8 SCC 254], Administrator, Cosmopolitan Hospitals (P) Ltd. V/s Regional Provident Fund Commissioner & Ors. [W.A. No.57 of 2010 (passed by Kerala High Court)], Regional Provident Fund***

Commissioner V/s Employees Provident Fund Appellate Tribunal & Ors. [Letters Patent Appeal No.1009 of 2022 (passed by the High Court of Gujarat)], Admission Supervisory Committee for Medical Education v/s Karthik Dev R & Ors. [W.A. No.1550 of 2025 (passed by Kerala High Court)] and Jasbhai Motibhai Desai V/s Roshan Kumar, Haji Bashir Ahmed & Ors. [(1976) 1 SCC 671].

09. They also referred the dictionary meaning of word "aggrieved party" from Black's Law Dictionary, Eleventh Edition, which defines word "aggrieved party" as under:

Aggrieved party. (17c) A party entitled to a remedy; esp., a party whose personal, pecuniary or property rights have been adversely affected by another person's actions or by a court's decree or judgment. – Also termed *party aggrieved*; *person aggrieved*.

10. They vehemently argued that the functions and duties assigned to Authority are different from duties and functions assigned to ERA in the case of *Airports Economic Regulatory Authority of India (supra)*. The judicial discipline requires that "an adjudicatory authority" cannot challenge the order passed by the higher authority under any circumstance, which would undermine the principles of judicial discipline. In order to consider the aforesaid question, it is apposite to refer the provisions of Section 58 of Act, 2016, under which the present appeals are filed, which is reproduced as under:

"58. Appeal to High Court.-(1) Any person aggrieved by any decision or order of the Appellate Tribunal, may, file an appeal to the High Court, within a period of sixty days from the date of communication of the decision or order of the Appellate Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908: Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

Explanation.-The expression "High Court" means the High Court of a State or Union territory where the real estate project is situated.

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties."

11. Section 58 of Act, 2016 uses the expression "any person aggrieved". The word "person aggrieved" is not defined under the Act, 2016, however, Section 2(zg) of the Act defines "person" as under:

"(zg) **"Person"** includes,-

- (i) an individual;
- (ii) a Hindu undivided family;
- (iii) a company;
- (iv) a firm under the Indian Partnership Act, 1932 (9 of 1932) or the Liability Partnership Act, 2008 (6 of 2009), as the case Limited may be;
- (v) a competent authority;
- (vi) an association of persons or a body of individuals whether incorporated or not;
- (vii) a co-operative society registered under any law relating to co-operative societies;
- (viii) any such other entity as the appropriate Government may, by notification, specify in this behalf;"

12. Section 43 similarly uses the expression "any person aggrieved". Before adverting to the core issue whether the Authority being an institutionary body exercising *quasi-judicial* as well as regulatory powers under the Act, 2016 can be treated as a "person aggrieved" so as to maintain an appeal against the order of the Appellate Tribunal. It is apposite to refer the object and scheme of the Act, 2016. The Act, 2016 is an enactment by the Parliament to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto.

13. The authority is defined under Section 2(i) of the Act, 2016,

which means the Authority established under sub-Section (1) of Section 20. Chapter I of the Act, 2016 deals with the short title, object, commencement and extent in Section 1 & 2. Chapter II deals with the registration of real estate project and registration of real estate agents from Section 3 to 10. Chapter III deals with the functions and duties of promoter from Section 11 to 18. Chapter IV deals with the rights and duties of allottees in Section 19. Chapter V deals with the Real Estate Regulatory Authority from Section 20 to 40. Chapter VI deals with the Central Advisory Council in Section 41 & 42. Chapter VII deals with the Real Estate Appellate Tribunal from Section 43 to 58. Chapter VIII deals with the offences, penalties and adjudication from Section 59 to 72. Chapter IX deals with the finance, accounts, audits and reports from Section 73 to 78. Chapter X deals with the miscellaneous Section 79 to 92.

14. The various provisions of the Act, 2016, which is reproduced as under:

Section	Particulars	Function
3	Prior registration of real estate project with Authority	Regulatory
4	Application for registration of real estate projects	Regulatory
5	Grant of registration	Regulatory
6	Extension of registration	Regulatory
7	Revocation of registration	Regulatory
8	Obligations of Authority upon lapse or on revocation of registration	Regulatory
9	Registration of real estate agents	Regulatory
10	Functions of real estate agents	Regulatory
11	Functions and duties of promoter	Regulatory
12	Obligations regarding veracity of the advertisement or prospectus	Regulatory & Adjudicatory
13	No deposit or advance to be taken without first entering into agreement for sale	Regulatory & Adjudicatory
14	Adherence to sanctioned plans and project specifications by the promoter	Regulatory & Adjudicatory
15	Obligation of Promoter in case of Transfer of Real Estate	Regulatory

	Project to a third Party	
16	Insurance of real estate project	Regulatory
17	Transfer of title	Regulatory
18	Return of amount and compensation	Adjudicatory
19	Rights and duties of allottees	Regulatory
20	Establishment and incorporation of Real Estate Regulatory Authority	Administrative
21	Composition of Authority	Administrative
22	Qualification of Chairperson and Members	Administrative
23	Term of Office of Chairperson and Members	Administrative
24	Salary, allowances of Chairperson and Members	Administrative
25	Administrative powers of Chairperson	Administrative
26	Removal of Chairperson or Member	Administrative
27	Restrictions on Chairperson or Members on employment after cessation of office	Administrative
28	Officers and employees of Authority	Administrative
29	Meeting of Authority	Regulatory & Administrative
30	Vacancies, etc., not to invalidate proceeding of Authority	Administrative
31	Filing of complaints with Authority or Adjudicating Officer	Adjudicatory
32	Functions of Authority for promotion of real estate sector	Regulatory
33	Advocacy and awareness measures	Regulatory
34	Functions of Authority	Regulatory
35	Power to call for information	Regulatory & Adjudicatory
36	Power to issue interim orders	Adjudicatory
37	Power to issue directions	Regulatory
38	Powers of Authority	Regulatory
39	Rectification of Order	Adjudicatory
40	Recovery of interest or penalty or compensation as arrears of land revenue	Adjudicatory
58	Appeal to High Court	Regulatory
59	Penalty for non-registration and contravention of provisions of section 3	Regulatory
60	Penalty for contravention of section 4	Regulatory
61	Penalty for contravention of other provisions of the Act	Regulatory
62	Penalty for non-registration by real estate agent	Regulatory
63	Penalty for failure to comply with orders of Authority	Regulatory & Adjudicatory
65	Penalty for failure to comply with orders of Authority by real estate agent	Regulatory & Adjudicatory

67	Offences by allottees	Adjudicatory
69	Offences by Companies	Adjudicatory
71	Power of Adjudicate	Adjudicatory
72	Factors to be taken into account by Adjudicating Officer	Adjudicatory
77	Budget Accounts and Audit	Administrative
78	Annual Report	Administrative
79	Bar of jurisdiction	Adjudicatory
80	Cognizance of offences	Regulatory
81	Delegation	Administrative
85	Power to make regulations	Administrative & Regulatory
86	Laying of rules	Administrative

15. In the case of *Smt. Bai Gurjar and Others V/s The State of Madhya Pradesh and Others (Writ Appeal No.1416 of 2025, decided on 24.07.2025)*, a question arose for consideration that whether writ appeal is maintainable at the instance of an intervener or "person aggrieved" under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005. The Court considering the issue regarding maintainability of an appeal by intervener or "person aggrieved" referred various judgments of the High Courts and Hon'ble Supreme Court in the case of *Re Securities Insurance Co. [(1894) 2 Ch. 410]*, the Courts of Chancery considered the issue regarding maintainability of an appeal by a person who is not a party to the lis held that it is well settled that while a person who was party could appear without any leave but a person who without being a party was either have laid down the rule that a person who is not a party to a decree or order may with the leave of the Court, prefer an appeal from such decree or order if he is either bound by the order or is aggrieved by it or is prejudicially affected by it.

16. In the case of *A. Subash Babu V/s State of A.P., reported in (2011) 7 SCC 616*, the Apex Court held that the expression 'aggrieved person' denotes an elastic and an elusive concept. It cannot be confined

to the bounds of a rigid, exact and comprehensive definition. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which contravention is alleged, the specific circumstances of the case, the nature and extent of the complainant's interest and the nature and extent of the prejudice or injuries suffered by him. The appellants have thus, failed to demonstrate that they are prejudicially or adversely affected by the decree in question or any of their legal rights stand jeopardised, so as to bring them within the ambit of the expression "person aggrieved" entitling them to maintain appeal against the decree.

17. The expression "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must, therefore, necessarily be one, whose right or interest has been adversely affected or jeopardized (see: *Shanti Kumar R. Canji V/s Home Insurance Co. of New York, (1974) 2 SCC 387 and State of Rajasthan V/s Union of India, (1977) 3 SCC 592*).

18. Referring to the aforesaid judgments, the Court held that intervener falls within the category of "person aggrieved" and since there rights are prejudicially affected by the impugned order, they can maintain an appeal by filing an application for leave to appeal.

19. The issue regarding an authority being impleaded as a party or not and whether an authority like Airport Economic Regulatory Authority of India (AERA) established under Airports Economic Regulatory Authority of India Act, 2008 can file an appeal was considered in the case of *Airports Economic Regulatory Authority of India (supra)*. The Court considered the regulatory and adjudicatory functions and held that a *quasi-judicial* authority must not be impleaded as a party in an appeal against its orders, must be interpreted in view of the doctrinal expansion of principle of fairness, however, held as under:

(i) An authority (either a judicial or quasi-judicial authority) must not be impleaded in an appeal against its order if the order was issued solely in exercise of its "adjudicatory function"

(ii) An authority must be impleaded as a respondent in the appeal against its order if it was issued in exercise of its regulatory role, since the authority would have a vital interest in ensuring the protection of public interest

(iii) An authority may be impleaded as a respondent in the appeal against its order where its presence is necessary for the effective adjudication of the appeal in view of its domain expertise – Civil Procedure Code ,1908 – Or. 1 R. 10 authority – Impleadment of statutory authority. (Paras 32 to 40.3)

20. In the present case, admittedly, the Authority was impleaded as a respondent before the appellate authority and once the Authority was impleaded party in the appeal by the respondent themselves, then the Authority becomes an "aggrieved party" as well.

21. In the light of the aforesaid judgments and the provisions of the Act, 2016 as reproduced in Para 14 hereinabove, it is crystal clear that the Act, 2016 had conferred three types of functions to the authority i.e. administrative, regulatory and adjudicatory. So far as the powers exercised in adjudicatory capacity is concerned, we do not have hesitation to say that the authority cannot maintain an appeal to defend its decision. However, the powers conferred in discharge of regulatory is concerned, the authority can maintain an appeal because that is not adjudicatory exercise of powers. The same does not decide the dispute between the parties. Thus, considering the scheme of the Act, 2016 and the distinct powers which are to be exercised by the Authority, we answer the question that : "A *quasi-judicial* authority like Authority, when acting as an adjudicator, is not an 'aggrieved party', therefore, lacks locus standi to challenge the appellate order setting aside its decision except where it acts in a distinct statutory or regulatory capacity."

22. In view of the aforesaid discussion and our answer to the

question, we held that all the appeals filed by the M.P. Real Estate Regulatory Authority i.e. MSA Nos.76/2025, 87/2025, 90/2025 & 09/2026 are maintainable.

23. List the matters for hearing on admission on **21.04.2026**.

24. Let a photocopy of this order be kept in the record of all the connected Miscellaneous Second Appeals.

(VIJAY KUMAR SHUKLA)
JUDGE

(ALOK AWASTHI)
JUDGE

Divyansh