



COMPETITION COMMISSION OF INDIA

Case No. 38 of 2018

In Re:

**P. Sesharatnam W/o late Rama Rao,
R/o 1-2-63, Kakatiya Nagar,
Habsiguda, Secunderabad. 500 007** Informant No.1

**Sri P. Dasaratharaman, S/o. late Rama Rao,
R/o 1-2-63, Kakatiya Nagar, Habsiguda,
Secunderabad 500 007.** Informant No.2

**Pattabiraman, S/o late Rama Rao,
R/o 1-2-63, Kakatiya Nagar, Habsiguda,
Secunderabad 500 007.** Informant No. 3

**C.Vijayalakshmi, W/o Sridhara Murthy Cheruvu,
R/o.202, CASA Marina CHS, Harinandan Estates,
Patllipada, Ghodbunder Road,
Thane West 400 607.** Informant No. 4

**Sridhara Murthy Cheruvu,
S/o Badarinarayana Murthy,
R/o.202, CASA Marina CHS,
Harinandan Estates,
Patllipada, Ghodbunder Road,
Thane West 400 607.** Informant No. 5

And

**Sudershan Reddy S/o Deva Reddy,
R/o Flat No. 405, H.No. 1-7-21,
J.J. Nagar, Devi Garden, Habsiguda,
Street No.8, Hyderabad 500 007.** Opposite Party No. 1

**Sri. Gilla Gouraiah S/o Veeresham,
R/o 1-1-590, Gandhi Nagar, Canara Bank,
Hyderabad 500 080.** Opposite Party No. 2

**Mekala Srinivas S/o Mallaiah,
R/o H.No.8-1-39/2, Kattarampur,
Thirumalnagar, Karimnagar 505 001.** Opposite Party No. 3



**L. Nikhila Rao D/o Krishna Rao,
R/o H.No. 1-1-535, A3, 4th Floor,
Narayana Enclave Apartments,
Gandhi Nagar, Hyderabad 500 080.**

Opposite Party No. 4

**Sri. D. Ravi S/o Venkateswar,
R/o H.No. 2-1-36,
Tadbund, Secunderabad 500 009.**

Opposite Party No. 5

**Mallikarjuna Kamalla S/o Beeraiah,
R/o Flat No.007, Veda Heavens,
Plot Nos.169 & 170, J.J. Nagar,
Sainikpuri, Secunderabad 500 041.**

Opposite party No. 6

**M/s. Tapaswi Constructions,
Rep. by P.Srinivas,
License No. B2/1977/2012, 2/1/340/1/3
Portion 301, Nallakunta, Hyderabad,
Telangana-500044.**

Opposite Party No. 7

CORAM

**Mr. Sudhir Mital
Chairperson**

**Mr. Augustine Peter
Member**

**Mr. U.C. Nahta
Member**

Order under Section 26(2) of the Competition Act, 2002

1. The present information has been filed under Section 19(1)(a) of the Competition Act, 2002 (“Act”) by Ms. P. Sesharatnam and four other Informants, as stated above, (“**Informants**”) against Mr. Sudershan Reddy and six other, Opposite Parties, as stated above (“**Opposite Parties**”/ “**OPs**”) alleging contravention of the provisions of Section 3 of the Act.



2. The Informants have submitted that the late husband of Informant No.1, Mr. P. Rama Rao, had purchased a residential plot, admeasuring 1670 Sq. yards situated at Kakatiya Nagar, Habsiguda, Ranga Reddy District. Out of 1670 Sq. Yards, 524 Sq. yards was purchased in the name of Informant No.1; 500 Sq. yards was purchased by the Informant No. 1's late husband in his own name, which was also transferred to Informant No. 1 by her late husband during his lifetime; 491 Sq. yards was purchased in the name of Informant No. 2, who was then a minor, by way of registered sale deed. Out of 524 Sq. yards in the name of the Informant No.1, a portion measuring 262 Sq. yards was sold to Mr. Vasudevarao by way of a registered sale deed.
3. The Informants have further submitted that the late husband of Informant No. 1 constructed a residential house on 1253 Sq. yards and left rest of the space as an open area appurtenant to the house and the Informants were living in that house.
4. It has been further averred that after the death of the husband of Informant No. 1, an issue cropped up among his heirs for partition of the property. In pursuance of the same, all the legal heirs decided to give the house property for construction of a new residential complex. Mr. Vasudevarao, owner of 262 Sq. yards of land, with a house thereon, also joined with the said legal heirs for the proposal of giving the land for construction of residential complex.
5. The Informants, Mr. Vasudevarao and OPs herein entered into a Development Agreement-cum-General Power of Attorney ("**Development Agreement**") on 23.11.2013, for construction of a new residential complex on the said land. *Apropos* the said Development Agreement, OPs obtained building permission on behalf of the Informants and Mr. Vasudevrao, from the Municipal authorities for construction of residential complex. The said permission was granted for construction of



a Cellar, Stilt for parking and 5 upper floors *vide* permit No.38963/HO/EZ/ZCir-2/2014, dated 18.12.2014.

6. The Informants have submitted that in the building permit order M/s. Tapasvi Constructions was named as builder/developer, however, the Informants had not entered into any contract with M/s. Tapasvi Constructions. The Informants have alleged that the OPs entered into an agreement with M/s. Tapasvi Constructions, without the permission of the Informants and other landlords, which amounted to novation of contract leading to violation of the conditions of Development Agreement.
7. The Informants have averred that as per the Development Agreement, the construction of the complex was to be completed within 18 months after obtaining building permission, with 6 months grace period *i.e.*, maximum of 24 months from the date of approval *i.e.*, 18.12.2014.
8. The Informants have submitted that though the OPs started construction immediately after obtaining the permission, however, the slab of the 1st floor collapsed within no time, owing to the alleged sub-standard material which was utilized for laying such slab. Thus, the Informants have alleged that the OPs were constructing the residential complex using sub-standard materials. The Informants have also alleged that the OPs were not doing proper water curing to the construction already done and were also not permitting the landlords into the site to check the construction.
9. The Informants have further alleged that the OPs did not take any step to complete the construction for 3 years after getting the building permission. The Informants have further alleged that when the building permission was going to lapse on 17.12.2017, the OPs started the construction activity and proceeded with the construction very slowly. Further, when the Greater Hyderabad Municipal Corporation (“GHMC”) recently extended



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the building permission from 3 years to 5 years, the OPs again stopped the construction activity.

10. The Informants have stated that the OPs agreed to pay a sum of Rs.14,25,000/- to Informant No. 1 and Informant No. 3 taken together, Rs.16,00,000/- to Informant No.2 and Rs.19,40,000/- to Informant No. 4 and 5 taken together as goodwill. It was also agreed that an amount of Rs.8,00,000/- would be paid to Mr. P.V.R. Shekar. In order to effectuate the same, a separate Memorandum of Understandings, dated 21.11.2013, was entered into between Informant No. 1, Informant No. 3 and OP-1.
11. The Informants have also stated that the OPs agreed to pay a monthly rent of Rs. 9,000/- to Informant No.1 and Rs. 7,000/- to Informant No.2 for the accommodation during the construction period and to that effect OP-1 executed separate Rental Agreements, dated 06.11.2013, with the said Informants. Accordingly, Informant No.1 and 2 shifted to the rented house in the month of December 2013 and the OPs paid rent till December 2014 and after that stopped the payment of rent. Since then Informant No. 1 and 2 are paying Rs. 15,000/- as monthly rent for their tenements from their own pocket. In furtherance of the Memorandum of Understanding dated 21.11.2013, OP-1 issued post-dated cheques dated 01.02.2014, bearing No. 320163 for Rs.7,25,000/- in favour of Informant No.1, Cheque No. 320171 for Rs.16,25,000/- in favour of Informant No.2, Cheque No.320167 for Rs.8,20,000/- in favour of Informant No.4, and Cheque No. 320166 for Rs.8,00,000/- in favour of Informant No.5 and the rest of the amount was agreed to be paid on cash basis. But on presentation of the said Cheques by the respective Informants, these instruments were dishonoured for want of funds. The OPs also failed to pay the amount agreed to be paid by way of cash, as aforementioned.
12. The Informants have submitted that in the said Memorandum of understanding, dated 21.11.2013, it was categorically mentioned that if



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the cheques are dishonoured due to insufficient funds/ other reasons, then the Development Agreement would become null and void from the date of dishonour of the cheque and thus, for all practical purposes, the Development Agreement had become null and void in the year 2014 itself.

13. The Informants have also stated that they issued registered legal notices dated 06.01.2016 and 12.03.2016, to the OPs. After receiving the said legal notices, the OPs filed a suit *vide* O.S.1223/2016 before the Court of Learned Senior Civil Judge, Ranga Reddy District, Telangana seeking relief of perpetual Injunction, restraining the Informants from trespassing into or interfering with possession, preventing or obstructing the development activity being carried out by the OPs. However, no injunction was granted in favour of the OPs in the said suit, by the Hon'ble Court.
14. The Informants have alleged that the OPs have failed to complete and hand over the agreed flats to the Informants/landlords within 24 months of the permission from the GHMC.
15. Based on the above averments and allegations, the present information has been filed by the Informants against the OPs, alleging contravention of the provisions of Sections 3 of the Act.
16. The Informants have *inter alia* prayed that the Development Agreement-cum-General Power of Attorney executed between the Informants and the OPs be declared as null and void, as the OPs did not complete the construction within the stipulated period as per the said Development Agreement. Further, the Informants have prayed that the OPs be directed to pay, apart from exemplary costs, value of flats, amount of goodwill and rent to the Informants as agreed between them.
17. The Commission has perused the information and the documents filed



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therewith and also considered the material available in the public domain.

18. At the outset, the Commission notes that though the Informant has alleged contravention of the provisions of Sections 3 of the Act, yet looking at the nature of the allegations, the provisions of Section 3 of the Act have no application to the present case as the Informants and the OPs are neither operating at the same level in the market, *i.e* Section 3(3) of the Act, nor are they part of the same production/ supply chain, *i.e.* under Section 3(4) of the Act.
19. The Commission observes that the facts disclosed in the instant case are purely a consumer/ contractual dispute, beyond the purview of the Act. The allegation of non-performance of the conditions of the Development Agreement, does not raise any competition concern as there is no Appreciable Adverse Effect on competition from the same. Further, dishonor of the cheques issued by the OPs and cancellation of development agreement, as alleged in the instant case, are not the mandate of the Commission.
20. The Commission further observes that in the instant case the dispute arises out of an alleged private injury and has no adverse effect on the competition. Upon perusal of the Development Agreement and MoUs between the Informants and the OPs, it is substantiated that the instant case lies outside the jurisdiction of the Commission and the Informants may thus seek redressal from an appropriate forum for vindication of their rights.
21. In view of the foregoing, the Commission is of the opinion that no case of contravention of the provisions of Sections 3 of the Act is made out against the OPs and the information is ordered to be closed forthwith in terms of the provisions contained under Section 26(2) of the Act.



22. The Secretary is directed to communicate to the Informants, accordingly.

Sd/-
(Sudhir Mital)
Chairperson

Sd/-
(Augustine Peter)
Member

Sd/-
(U. C. Nahta)
Member

New Delhi

Date: 10.10.2018