

IN THE COURT OF SH. SUMIT DALAL
DISTRICT JUDGE – 04 : SOUTH WEST DISTRICT
DWARKA COURTS : NEW DELHI

RCA CIVIL DJ ADJ: 72/2025
CNR NO: DLSW01-004945-2025

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Date of Institution of Appeal	:	31.05.2025
Date of Final Arguments	:	12.11.2025
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J U D G M E N T

1. The present appeal is directed against the judgment and order dated 29.05.2025 passed by the Court of Ld. SCJ-cum-RC, Dwarka Court in case titled “*Anisuddin & Ors. v. Delhi Development Authority & Ors, CS SCJ 624/2024*”, whereby the civil suit instituted by the appellants/plaintiffs, who are allottees of EWS flats in Phase-III, Pocket-5, Sector-16B, Dwarka, New Delhi under the DDA Diwali Special Housing Scheme-2023, was held to be not maintainable before the civil court on the ground of bar of jurisdiction under the scheme of the Real Estate (Regulation and Development) Act, 2016. Aggrieved by the impugned order declining civil court jurisdiction, the appellants have preferred the present appeal seeking reversal thereof and restoration of the suit for adjudication on merits.

PLAINTIFF’S CASE BEFORE THE LD. TRIAL COURT

2. The appellant (plaintiffs) pleadings before the Ld. Trial Court are summarized as follows:

- a. Plaintiffs are the allottees of flats under the EWS category in a newly constructed housing project of DDA at Sector-14, Pocket-5, Dwarka, New Delhi, specifically stated to be Towers ‘G’ and ‘H’ under the DDA Diwali Special Housing

Scheme, 2023 (FCFS online basis). Possession letters and demand letters were issued to them by DDA.

- b. The defendant Delhi Development Authority (DDA) launched the said Diwali Special Housing Scheme 2023 and offered, in one housing pocket/society at Sector-14, Pocket-5, Dwarka, 1008 EWS flats, 316 LIG flats, and 316 MIG flats, along with amenities such as a community centre, a central green area/park, and other common amenities mentioned in the prospectus. The plaintiffs asserted that these amenities were meant for all allottees of EWS, LIG and MIG categories, and that there was no contemplated discrimination amongst these categories in the use and enjoyment of such common facilities/amenities.
- c. At or about the time of booking, the allottees visited the site and checked the amenities/facilities and found them commensurate with the prospectus. Thereafter, they made full payment to DDA in terms of the demand letters. At that time there was no proposal, planning or disclosure regarding any fencing/iron gates/segregation between the EWS blocks and the MIG/LIG blocks, either in the scheme documents or on site. The plaintiffs placed reliance upon the prospectus/brochure of the scheme.
- d. On 26.04.2024, during night hours, some labourers along with certain DDA officials attempted to install fencing/iron gates between the EWS flats and the MIG/LIG flats. Upon being questioned by the EWS allottees regarding any written

order/authority and any written intimation for such work, the DDA officials/labourers stated that they had no written order and were acting on oral instructions from their seniors. It was pleaded that due to intervention by the EWS allottees, the installation could not be completed at the location marked in red in the site plan, though fasteners for the gate were installed before the work was abandoned. Complaints were made to the concerned authorities.

- e. On 03.05.2024, stating that between about 9.30 PM and 10.00 PM, 5-6 DDA officials (including JE/AE/SE), along with labourers and 25-30 security guards, again came to the society and attempted to erect/install fencing/iron gates illegally between the EWS flats and MIG/LIG flats. On being asked to show any written order, the officials again stated that they had no written order and were acting on instructions from seniors. One allottee made a police call at 112, resulting in DD entry No. 130 and DD entry No. 138, and that the Investigating Officer from PS Dwarka North reached the spot, controlled the situation and asked DDA officials to show a written order, whereupon they stated that they had none. The IO informed the DDA officials that they had no right to carry out installation without a lawful written order. Some of the allottees and some DDA officials went to the Police Station on the IO's direction, where the IO asked the DDA officials to give a written statement that they would not repeat the act

without lawful order, but since they had no legal order, they ran away.

- f. Not a single word was mentioned in the brochure/prospectus about any proposed fencing/partition wall/segregation between EWS flats and MIG/LIG flats. Reliance is placed on clauses of the brochure, Point 9.1, to contend that the scheme contemplated one Registered Agency/Association of Apartment Owners/RWA for one pocket, to be treated as one Housing Estate, and that all allottees of each pocket were mandatorily required to become members of the concerned RWA for maintenance of common portions and common services. Despite the scheme contemplating a unified housing estate and a single RWA, the officials of DDA attempted to install fencing/gates so as to separate/segregate the EWS towers from the MIG/LIG units.
- g. As per Point 9.2 of the brochure regarding upfront payment of maintenance charges as corpus fund, the corpus fund was collected as part of the flat price for major maintenance works for the housing pocket/estate and, once the RWA is formed, the fund would be handed over by DDA to the RWA for future maintenance. The structure of corpus fund and unified maintenance system, as set out in the brochure, reinforced that the housing pocket was intended to be treated as one common housing estate, and that segregation by fencing was contrary to the scheme's object.

- h. Although no RWA had been formed for want of 100% occupancy, the defendant was trying to create “*separate units*” and thereby discriminate amongst flat owners of the three categories, which was against the object and mandate of the scheme clauses relied upon in the prospectus.
- i. Apart from creating discrimination, the defendant’s attempt would have the effect of debarring/precluding EWS residents from access to and enjoyment of common facilities, including the central park and the community centre, which they pleaded were situated between the LIG and MIG units. It was asserted that by installing fencing/gates, the defendant and its officials were attempting to invade the “*vested rights*” of the plaintiffs and other flat owners in the EWS tower.

3. On the basis of the aforesaid pleadings, the plaintiffs prayed for (i) a decree of permanent injunction restraining the defendant, its agents/associates/servants/attorneys/representatives from installing/erecting any kind of fencing/barricades/obstruction between the EWS flats and MIG/LIG flats at the place shown red in the site plan/photographs or any other place in the society; and (ii) a decree of mandatory injunction directing removal/uninstallation of the hindrance created between the EWS flats and MIG/LIG flats, more particularly as shown in the photographs, besides any other appropriate relief.

DEFENDANT’S DEFENSE BEFORE THE LD. TRIAL COURT

4. In the written statement filed on behalf of Delhi Development Authority (DDA), the defendant (respondent no. 1) raised preliminary objections disputing the very maintainability of the suit. At the threshold, it was pleaded that no cause of action was disclosed against the answering defendant and, therefore, the suit was liable to be dismissed. It was further pleaded that the allegations made in the plaint were false, frivolous and baseless, and were denied in entirety. The defendant also pleaded that the plaintiffs had approached the Court with unclean hands.

5. A specific objection on maintainability was taken on the ground of non-compliance of statutory notice requirements, namely under Section 53B of the Delhi Development Act and Section 80 CPC. According to the defendant, the suit was barred for want of statutory notice and the plaintiffs were not entitled to the exemption/waiver claimed in the plaint.

6. In its para-wise reply, the defendant did not dispute the broad factual backdrop that the plaintiffs were allottees in the concerned DDA project; rather, its principal defence was that the work complained of by the plaintiffs, namely installation of openable gates and fencing, was a sanctioned and approved developmental activity, undertaken for legitimate purposes and not for discrimination or segregation of amenities.

7. While responding to the plaintiffs' pleading that there was no proposal of fencing at the time of allotment/booking, the defendant specifically denied the same and pleaded that, as per the

drawing approved by the Screening Committee in the 413th SCM meeting held on 15.06.2023, provision of openable gates along with fencing was already contemplated/mentioned. The defendant pleaded that such provision was approved for the purpose of providing safe access to different blocks and for segregating the commercial block (facility block) from the residential block.

8. The defendant pleaded that the rationale behind the said approved provision was public safety and security, asserting that the openable gates/fencing would prevent any difficulties likely to arise on account of the commercial spaces in the facility block, and would thereby protect residents of the EWS block as well as residents of the other categories (referred to by the defendant as Cat-II/MIG/LIG).

9. A categorical stand was taken by the defendant that the installation of such gates/fencing would not create any hindrance or obstruction in the usage or access of the central green area, facility block, shops, senior citizen room, community centre and other common amenities. It was pleaded that the facilities would remain accessible to residents of all blocks, and that the installation would not result in any discrimination.

10. In response to the plaintiffs' narration of incidents dated 26.04.2024 and 03.05.2024 (including the allegations of absence of written order and alleged oral directions), the defendant denied the allegations and asserted that the activity of installation was being carried out with proper authority, i.e., with written

order/approval by the competent authority as per the approved plan/drawing. It was pleaded that the work was in progress up to 4:00 PM on 09.05.2024 and was stopped only because of the status quo order dated 09.05.2024 passed by the Ld. Trial Court.

11. The defendant further pleaded, by way of factual clarification, that out of four locations, only two locations were to be provided with openable gates. In effect, the defendant sought to convey that the plaintiffs' apprehension of complete fencing/segregation was misplaced and exaggerated.

12. The defendant sought to distance the issue of gates/fencing from the brochure provisions relating to RWA formation and maintenance corpus fund. It was pleaded that installation of gates had no concern with formation of RWA or with payment/handling of the corpus fund, and that it was purely a developmental activity undertaken by the defendant for safety/security and orderly access.

13. The defendant also controverted the plaintiffs' plea that they had no equally efficacious alternative remedy and asserted that the plaintiffs were not entitled to any relief against DDA. It was specifically pleaded that the plaintiffs had failed to establish any urgency justifying exemption from statutory notice requirements.

14. The defendant, DDA, ultimately prayed for dismissal of the suit with heavy costs, and for such other orders as the Court may deem fit and proper in the interest of justice.

PROCEEDINGS BEFORE THE LD. TRIAL COURT

15. The suit was initially instituted by the plaintiffs against Defendant No. 1/Delhi Development Authority (DDA) only seeking permanent and mandatory injunctions in relation to the installation of openable gates/fencing within the housing project. Upon filing of the suit, the matter proceeded before the Ld. Trial Court in the usual course and pleadings were directed to be completed.

16. During the pendency of the proceedings, an application under Order I Rule 10 of the CPC was moved by certain allottees belonging to the MIG and LIG categories of the same project. The applicants (now Respondents No. 2 to 8) sought their impleadment as defendants, asserting that they were necessary and proper parties to the suit. They contended that the installation of the fencing was a crucial security measure approved by the DDA and that their interests, safety, and the specific terms of their allotment would be directly impacted by the outcome of the litigation.

17. After hearing the parties, the Ld. Trial Court, vide its order, allowed the impleadment of the said applicants, who were accordingly arrayed as Defendants No. 2 to 8. In their subsequent pleadings, these defendants supported the stance of the DDA, further alleging that the plaintiffs had obtained the interim stay by suppressing the fact of the project's registration with the RERA Authority.

18. The Ld. Trial Court subsequently framed the preliminary issue of jurisdiction “*Whether this Court has jurisdiction to try the present matter?*” The proceedings involved a detailed examination of the sanctioned layout plans, the minutes of the 413th Screening Committee Meeting dated 15.06.2023, and the statutory framework governing RERA-registered projects.

19. The proceedings before the Ld. Trial Court culminated in the passing of the impugned judgment and order dated 29.05.2025. By way of the said order, the Ld. Trial Court accepted the contention of the defendants regarding the jurisdictional bar. Consequently, the plaint was found to be not maintainable before the Ld. Trial Court due to lack of jurisdiction. The suit was found to be barred under Section 79 of RERA Act and was accordingly dismissed.

IMPUGNED ORDER

20. By the impugned order dated 29.05.2025, the Ld. Senior Civil Judge-cum-Rent Controller (South-West), Dwarka, decided the preliminary issue “*Whether this court has jurisdiction to try the present matter? OPD*” against the plaintiffs and dismissed the suit as barred under Section 79, RERA Act.

21. The Ld. Trial Court, after extracting the Statement of Objects and Reasons of RERA and noticing Sections 11(4), 14, 19,

20, 31 and 79, held that RERA is a special, self-contained code intended to regulate the real estate sector, ensure compliance with promoter obligations and provide a specialised adjudicatory mechanism. It observed that Section 11(4) imposes ongoing obligations on the promoter till conveyance of apartments and common areas, Section 14(2) requires consent of two-thirds of allottees for alterations in the sanctioned plan, Section 31 permits any aggrieved person to complain of violations of the Act, and Section 79 expressly bars civil court jurisdiction in respect of matters which the Authority or the Adjudicating Officer or the Appellate Tribunal is empowered to determine.

22. On the admitted facts that completion certificate was issued on 24.02.2024, occupancy certificate on 20.04.2024, allotment commenced in March 2024 and that management of common areas had not yet been handed over to any association/RWA, the Ld. Trial Court held that the core grievance of the plaintiffs – namely, that installation of a gate/fence between EWS and MIG/LIG blocks is contrary to the RERA-registered sanctioned plan and undertaken without requisite consent – constitutes an allegation of violation of the sanctioned plan and promoter's obligations under RERA, and therefore falls within the exclusive jurisdiction of the RERA Authority under Sections 14, 19, 20 and 31. Referring to *Imperia Structures Ltd. v. Anil Patani and Anr (2020) 10 SCC 782*, *AshoPalav Coop. Housing Society Ltd. v. Pankaj Bhagubhai Desai and Anr. 2022 SCC Online Bom 10229* and *Joydeep Roy and Anr. v. Srijan Residency LLP and Ors*

2023 SCC Online Cal 3408, the Court held that the bar under Section 79 is absolute for such promoter-related disputes, and further rejected the plaintiffs' contention that RERA lacks power to grant injunctive relief by pointing out that Sections 35 and 36 confer on the Authority powers analogous to those of a civil court, including the power to issue directions and pass interim orders.

23. The Ld. Trial Court concluded that RERA provides adequate and efficacious remedies and that, applying the principles in Dhulabhai v. State of Madhya Pradesh (1968) 3 SCR 662, the jurisdiction of the civil court stands excluded where a special tribunal is empowered to do what a civil court would normally do in a suit; it accordingly decided the preliminary issue in favour of the defendants, held that the suit is barred under Section 79 of the RERA Act, 2016, and dismissed the suit for want of jurisdiction, directing that the file be consigned to the record room after due compliance.

THE APPEAL AND SUPPORTING ARGUMENTS

24. Sh. M.S. Rohilla, Ld. Counsel, argued on behalf of the Appellants. The Ld. Counsel for the appellants contend that the impugned decision suffers from errors of law and misapplication of statutory provisions; that the civil court's jurisdiction under Section 9 CPC is not ousted in the facts of the case; and that the reliefs sought, particularly injunctive relief to restrain segregation and protect the right of access to common facilities, cannot be effectively granted by the statutory authorities under RERA.

25. In substance, the appellants' challenge proceeds on the premise that the suit is not merely a dispute about "*compliance by a promoter*" in the narrow RERA sense, but is a civil wrong impacting the appellants' vested and continuing rights to use and enjoy common areas/amenities in an integrated housing pocket, and therefore the civil court retains jurisdiction. It is urged that the grievance concerns segregation/discrimination by erecting fencing/gates between EWS and MIG/LIG blocks, which, according to the appellants, was not disclosed in the prospectus and was sought to be implemented without transparency and without consent of the allottees; and that such action has the effect of restricting access to central green/common facilities and altering the character of the housing pocket to the detriment of EWS allottees. On this basis, it is contended that the impugned order erroneously treats the dispute as one falling squarely within the RERA Authority's exclusive domain.

Grounds urged on maintainability and civil court jurisdiction

26. The Ld. Counsel for the appellants argued that civil court jurisdiction is the rule and ouster is an exception, and that the Ld. Trial Court has applied the bar mechanically without undertaking the required judicial inquiry as to whether (i) the statute expressly or impliedly bars the suit, and (ii) whether the special forum provides adequate and efficacious remedy akin to what a civil court would grant. It is argued that a civil suit for injunction to restrain interference with civil rights, access to common areas, and

prevention of continuing wrong, is maintainable unless the statute clearly takes it away. It is also contended that their plaint discloses a continuing cause of action arising from attempts to install the fencing and the apprehension of its repetition, and therefore the civil court ought not to have non-suited them at the threshold.

27. In support of the above propositions on jurisdiction and the governing tests for exclusion of civil court jurisdiction, the appellants rely upon the following decisions:

- a. **Dhulabhai (supra)** — reliance is placed to contend that even where a statute gives finality to the orders of a special tribunal, civil court jurisdiction is not excluded unless the tribunal can provide adequate remedy to do what the civil courts would normally do, and that exclusion would not operate where statutory requirements are not complied with or where the tribunal acts contrary to fundamental judicial procedure.
- b. **Krishan Lal v. State of Jammu and Kashmir (1994 (2) SCR 149)** — cited to reinforce the principle that jurisdiction of civil courts is plenary and cannot be inferred to be excluded unless the statute so provides expressly or by necessary implication, and that the court must examine the scheme of the Act and the nature of the right and remedy.
- c. **Sau Rajani v. Sau Smita (2022 INSC 805)** — relied upon to submit that disputes which, in substance, concern civil rights (including rights connected with enjoyment of premises/common amenities) may not necessarily fall within

the exclusive domain of a statutory authority merely because the authority is otherwise involved in housing-related administration; and that the court must look to the real nature of the grievance and the relief sought.

Grounds urged on Sections 88 and 89 of the RERA Act and harmonious construction

28. The Ld. Counsel for the appellants further urged that the Ld. Trial Court has failed to correctly interpret the impact of Sections 88 and 89 of the RERA Act. According to the appellants, Section 88 declares that the provisions of RERA are “*in addition to, and not in derogation of*” any other law, and therefore RERA does not extinguish or curtail other legal remedies. They contend that the impugned order treats Section 79 as an absolute ouster without harmonising it with Section 88, and without appreciating that the legislative intent behind Section 88 is to preserve other remedies which otherwise exist under general and special laws. They also rely upon Section 89 (overriding effect) to argue that the scheme of RERA requires a nuanced reconciliation of apparently competing provisions, and that it cannot be read to obliterate civil remedies which address continuing civil wrongs and injunctive relief.

29. In support of their submission regarding interpretation of savings/non-derogation clauses, overriding clauses, and the principles of harmonious construction, the appellants rely upon the following judgments:

- a. *Frick India Ltd. v. Union of India ((1989) Supp. 2 SCR)* — cited to contend that where a statute contains clauses dealing with coexistence of remedies or overriding effect, courts must adopt a construction that gives meaningful effect to all provisions and does not render any part redundant.
- b. *Rani & Anr v. Dinesh 2020 DHC 3436* — reliance is placed to support the proposition that a saving/non-derogation clause is indicative of legislative intent not to extinguish otherwise available legal remedies and that provisions must be read together to avoid implied repeal unless clearly intended.
- c. *Gujarat Urja Vikas Nigam Ltd. v. Essar Power Ltd. ((2008) 4 SCR 822)* — relied upon for principles governing harmonious construction and reconciliation between a special statute and other laws, and the manner in which overriding and saving clauses are to be interpreted.
- d. *Kunal Singh v. Union of India AIR 2003 SC 1623* — relied upon to submit that a beneficial/saving provision should receive a purposive construction so as to preserve substantive rights and remedies unless expressly taken away.
- e. *Forum for People's Collective Efforts v. State of West Bengal ((2021) 5 SCR 613)* — reliance is placed to argue that the statutory scheme of RERA, including the relationship between RERA and other fora/remedies, must be understood in light of the object of the Act and the intended consumer-protective architecture; and that provisions like Sections

88/89 require careful interpretation to avoid defeating legitimate remedies.

- f. *Nidhi Kaushik v. Union of India LPA 736/2013 dated 26.05.2014, Delhi High Court* — cited to support the approach that where multiple statutory provisions appear to overlap or conflict, the court must adopt an interpretation which avoids absurdity and gives effect to legislative intent by harmonising the provisions.
- g. *The Greater Bombay Co-Operative Bank v. Shri Shri Adishwar Oils and Fats Limited Company Petition No. 2/2015, dated 25.07.2017, Hon'ble High Court of Chhattisgarh* — relied upon for principles relating to exclusion of civil court jurisdiction and/or the effect of special statutes and their overriding/saving clauses when civil remedies are invoked.
- h. *Praveen Gambhir v. Union of India 2025:PHHC:046651-DB* — relied upon for propositions concerning statutory interpretation of saving clauses and preservation of remedies, particularly in public law contexts involving housing/administrative measures, to contend that the civil court remedy cannot be presumed to be extinguished unless clearly barred.

Grounds urged on undivided share in common areas and civil enforceability of such rights

30. The Ld. Counsel for appellants also advanced a distinct line of argument that, even otherwise, the dispute implicates the appellants' rights in relation to common areas and amenities, which in a housing project are not to be treated as divisible/segregable in a discriminatory manner. It is submitted that once the housing pocket is represented and sold as a composite project with common facilities, the allottees acquire enforceable rights to use and enjoy the common areas; and erection of fencing/gates which effectively restricts access or creates segregation is contrary to the concept of common areas and the principle of undivided interest therein. It is contended that such rights are civil rights capable of enforcement through civil injunctions, and therefore the Ld. Trial Court erred in holding that the appellants must be confined to the RERA forum, particularly when the grievance relates to physical obstruction and continuing interference with enjoyment of common facilities.

31. To support the above submission regarding undivided share/common areas and enforceability of such rights, the appellants rely upon the following judgments:

- a. *Sugar Apartments Flat Owners Society (Regd) v. Sequoia Construction Private Ltd. (1993 (26) DRJ 71)* — relied upon to submit that common areas/amenities in a group housing project are intended for collective enjoyment and that the flat owners' rights in common areas cannot be unilaterally impaired by the developer/promoter.

- b. *DLF Limited v. Manhohan Lowe, Hon'ble Supreme Court in Civil Appeal No. 10930/2013 dated 10.12.2013* — relied upon to contend that developers/promoters cannot unilaterally alter/appropriate common areas or act contrary to the representations made at the time of allotment/sale, and that the rights of allottees in common facilities deserve legal protection.
- c. *Hill Properties v. Union Bank of India ((2013) 10 SCR 89)* — cited to emphasize the legal recognition of undivided interest/common areas and the principle that rights pertaining to common portions are not to be dealt with in a manner prejudicial to those who have a legitimate interest therein.

Overall submission and relief sought in appeal

32. On the basis of the above contentions, the Id. Counsel for the appellants submits that the impugned judgment and order deserves to be set aside and that the civil suit ought to be held maintainable. It is urged that the Ld. Trial Court should have proceeded to examine the matter on merits, particularly in view of the pleaded incidents dated 26.04.2024 and 03.05.2024, the alleged absence of disclosure in the prospectus, and the apprehension of repetition of the act. The appellants therefore pray that the appeal be allowed, the impugned judgment/order be reversed, and the suit be restored for adjudication on merits (including consideration of injunctive relief), or such other order be passed as may be deemed fit in the facts and circumstances.

REPLY AND THE SUPPORTING ARGUMENTS

33. The Respondents, being the Delhi Development Authority (Respondent No. 1/Promoter) and the impleaded MIG/LIG allottees (Respondents No. 2 to 8), have vehemently opposed the appeal. Ms.Nishtha Chawla, Ld. Counsel, argued on behalf of Respondent No. 1, DDA, and Sh. Akash Khurana, Ld. Counsel, argued on behalf of Respondent No. 2 to 8. Their arguments primarily focus on the legislative intent of the RERA Act as a "*self-contained code*" and the Appellants' alleged attempt to bypass specialized regulatory scrutiny through the medium of a civil suit. The submissions of the Ld. Counsels for the Respondents are summarized as follows:

- a. Absolute Statutory Bar under Section 79 of the RERA Act: It is contended that the Real Estate (Regulation and Development) Act, 2016, was specifically enacted to create a specialized adjudicatory machinery for all disputes arising between promoters and allottees. The Respondents rely on the express language of Section 79, which contains a non-obstante character barring the jurisdiction of Civil Courts in respect of any matter which the Authority is "*empowered to determine.*" Drawing support from *Joydeep Roy (supra)*, the Respondents argue that the ouster is absolute and covers every facet of the promoter's obligations, including layout adherence and common area management.

- b. Grievances within the "Occupied Field" of RERA: The Ld. Counsel for the Respondents argued that every single grievance articulated in the plaint falls within a specific provision of the RERA Act. Consequently, the Respondents argue that the RERA Authority is not just a "concurrent" forum but the "exclusive" forum for these statutory grievances. The relevant provisions are as follows:
1. *Non-disclosure in Prospectus:* Governed by Section 12 (Veracity of advertisement).
 2. *Deviation from Layout Plans:* Governed by Section 14(1) (Adherence to sanctioned plans).
 3. *Alteration of Common Areas:* Governed by Section 14(2) (Consent for additions/alterations).
 4. *Information Rights:* Governed by Section 19 (Rights of allottees).
- c. Harmonious Interpretation of Sections 79 and 88: Responding to the Appellants' reliance on the "*non-derogation*" clause, the Respondents place heavy reliance on the Hon'ble Supreme Court's judgment in *Imperia Structures Ltd. (supra)*. Ld. Counsels contend that Section 88 saves remedies under other "*special statutes*" (such as the Consumer Protection Act) but does not preserve the residual jurisdiction of Civil Courts under Section 9 CPC, which is specifically targeted and ousted by Section 79. It is submitted that any other interpretation would render Section 79 "*nugatory and otiose*".

- d. Compliance with Sanctioned Plans (The 413th Screening Committee): On facts, the Respondent No. 1 (DDA) asserts that there is no "*unauthorized alteration*." It is submitted that the provision for fencing and gates was part of the layout plan approved by the 413th Screening Committee on 15.06.2023, which predates the allotment process. Therefore, the DDA is merely fulfilling its obligation under Section 14(1) to develop the project as per the sanctioned design. The MIG/LIG allottees (Respondents 2-8) further support this, arguing that the fencing is a necessary security measure promised to them at the time of their booking.
- e. Adequacy and Efficacy of RERA Remedies: The Respondents challenge the claim that RERA cannot grant mandatory relief. Relying on *Deepak Mawandia V. Shree RSH Projects Pvt. Ltd. 2025 CHC-AS 304-DB, Hon'ble Calcutta High Court*, it is argued that the cumulative effect of Sections 34, 36, and 37 empowers the Authority to issue binding directions to ensure "*strict compliance*." They contend that the Authority can effectively direct the removal of any structure found to be in violation of the Act, making the "*Dhulabhai test*" for adequacy of remedy fully satisfied in favor of RERA.
- f. Suppression of Material Facts and Conduct of Appellants: The Ld. Counsels for the Respondents raise a threshold objection regarding the Appellants' conduct. It is alleged that the Appellants approached the Civil Court with "*unclean hands*" by suppressing the fact that the project was RERA-

registered and that a specialized forum was available. Citing *S.P. Chengalvaraya Naidu v. Jagannath (1994) 1 SCC 1*, the Respondents contend that "*fraud avoids all judicial acts*" and that a litigant who suppresses material facts to obtain an ex-parte stay is not entitled to be heard on merits.

- g. Pre-Conveyance Management Rights: Finally, the Ld. Counsel for the Respondents argued that until the execution of conveyance deeds and the formation of a Residents Welfare Association (RWA) under Section 17, the DDA remains the custodian of the common areas. Under Section 11(4), the promoter is responsible for the project's functions until handover. Ld. Counsels for the Respondents contend that the DDA's decision to manage pockets for security and administration is a valid exercise of its promoter functions under the Act and does not constitute a "*civil wrong*."

34. On the basis of these submissions, the Respondents pray for the dismissal of the appeal and the affirmation of the Ld. Trial Court's order, relegating the Appellants to the appropriate regulatory forum.

POINTS OF DETERMINATION

35. Based on the pleadings, the grounds of appeal, and the rival submissions of the parties, the following points arise for determination by this Court in the present appeal:

- a. Point of Determination No. 1: Whether the present suit, filed by allottees of a RERA-registered housing project against the

promoter (DDA) alleging non-disclosure in prospectus, deviation from layout plan, and unauthorized alteration of common areas without allottee consent, concerns matters which the RERA Authority is empowered to determine under Sections 11, 12, 14, 17, 19, and 31 of the RERA Act, 2016?

- b. Point of Determination No. 2: Whether the RERA Authority possesses adequate remedial powers under Sections 34(f), 35, 36, and 37 of the RERA Act to grant the reliefs sought in the suit, namely permanent and mandatory injunctions, and if so, whether such remedial adequacy results in ouster of civil court jurisdiction under the principles laid down in *Dhulabhai v. State of Madhya Pradesh*?
- c. Point of Determination No. 3: Whether Section 79 of the RERA Act, which bars civil court jurisdiction for matters RERA is empowered to determine and prohibits courts from granting injunctions in RERA matters, operates to oust civil court jurisdiction in respect of the present suit?
- d. Point of Determination No. 4: Whether Section 88 of the RERA Act, which provides that RERA is "in addition to, and not in derogation of" other laws, preserves civil court jurisdiction under Section 9 CPC, or whether it must be read harmoniously with Section 79?
- e. Point of Determination No. 5: Whether the impugned judgment and order dated 29.05.2025 suffers from any legal infirmity, perversity, or misapplication of statutory provisions warranting interference by this Court in appeal?

ANALYSIS AND FINDINGS

POINT OF DETERMINATION NO. 1: "WHETHER THE PRESENT SUIT, FILED BY ALLOTTEES OF A RERA-REGISTERED HOUSING PROJECT AGAINST THE PROMOTER (DDA) ALLEGING NON-DISCLOSURE IN PROSPECTUS, DEVIATION FROM LAYOUT PLAN, AND UNAUTHORIZED ALTERATION OF COMMON AREAS WITHOUT ALLOTTEE CONSENT, CONCERNS MATTERS WHICH THE RERA AUTHORITY IS EMPOWERED TO DETERMINE UNDER SECTIONS 11, 12, 14, 17, 19, AND 31 OF THE RERA ACT, 2016?"

36. This point of determination is the threshold determination that forms the foundation for all subsequent jurisdictional findings. The inquiry requires this Court to examine whether the specific cause of action pleaded by the appellants, the factual allegations made against the respondent DDA, and the legal grievances articulated in the plaint fall within the category of *"matters which the RERA Authority is empowered to determine"* under the Real Estate (Regulation and Development) Act, 2016.

37. This determination is crucial because Section 79 of the RERA Act bars civil court jurisdiction *only in respect of matters which RERA authorities are empowered to determine*. If the present dispute falls outside RERA's empowerment, the jurisdictional bar does not apply, and civil courts retain jurisdiction under Section 9 CPC. Conversely, if the dispute falls squarely within RERA's

statutory domain, the express bar operates to oust civil court jurisdiction.

The Factual Matrix — Admitted and Undisputed Facts

38. Before examining the legal issues, it is essential to record the admitted factual position which forms the backdrop for this determination. First the details of the project and the parties:

- a. Project Details: The appellants are allottees of EWS flats in Phase-III, Pocket-5, Sector-16B, Dwarka, New Delhi. The flats were allotted under the DDA Diwali Special Housing Scheme 2023 launched by the Delhi Development Authority. The project is RERA-registered.
- b. Status of DDA: DDA is admittedly the "*promoter*" within the meaning of Section 2(zk) of the RERA Act, which defines promoter as a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees. There is no dispute that DDA falls within the definition of promoter under RERA.
- c. Status of Appellants: The appellants are "*allottees*" within the meaning of Section 2(d) of the RERA Act, which defines allottee as *a person to whom a plot, apartment or building, as the case may be, has been allotted, sold or otherwise transferred by the promoter.*

39. Now coming to the relevant dates and timeline which will be relevant for the adjudication of this point of determination.

- a. 15.06.2023: Minutes of the 413rd Screening Committee Meeting approving the site plan (allegedly including fencing/gates provision).
- b. 19.11.2023: Issuance of prospectus/brochure (Annexure P-2) for the Diwali Special Housing Scheme 2023.
- c. March 2024: Allotment process; appellants receive allotment letters and make payments.
- d. 24.02.2024: Completion certificate issued by competent authority.
- e. 20.04.2024: Occupancy certificate issued.
- f. 09.05.2024: Present suit filed; ex parte interim order obtained restraining installation of fencing.

40. In regard to the current status, the following facts are admitted and undisputed:

- a. No conveyance deeds have been executed in favor of any allottees.
- b. No Residents Welfare Association (RWA) has been formed.
- c. Common areas remain under the exclusive possession, ownership, and control of DDA.
- d. The project is in the pre-conveyance phase as contemplated by Section 17 of the RERA Act.

The Grievances and Cause of Action

41. The appellants' case, as pleaded in the plaint and articulated in arguments, rests on the factual allegations and legal grievances. The factual allegations are summarized below:

- a. Installation of Fencing/Gates: DDA is installing or has installed openable gates and fencing between the EWS blocks (where appellants reside) and the MIG/LIG blocks in the same housing project. This fencing creates physical segregation between the two categories of residents.
- b. Non-Disclosure in Prospectus: The brochure/prospectus issued in November 2023 did not disclose or mention any fencing or segregation between EWS and MIG/LIG blocks. The brochure showed a unified housing project with common amenities accessible to all residents.
- c. Deviation from Layout Plan: The layout plan/site plan made available to allottees at the time of booking did not depict any fencing or segregation. The fencing, if implemented, would constitute a deviation from the layout plan on the basis of which allottees made their booking decisions and paid consideration.
- d. Restricted Access to Amenities: The installation of fencing restricts or obstructs EWS residents' access to common facilities including central park, community center, playgrounds and other common amenities. This violates the appellants' rights under the allotment terms and the prospectus.

- e. Absence of Consent: No written consent was obtained from allottees before proceeding with the installation. No information or notice was provided to allottees about the proposed segregation.
- f. Safety Concerns: The fencing creates fire safety hazards and emergency access issues for 1008 EWS families residing in the affected blocks.

42. Now, coming to the legal grievances of the appellants. It is contended that DDA's action violates:

- a. Disclosure obligations under Section 11(3)(a) RERA (duty to furnish sanctioned plan, layout plan, and specifications).
- b. Truthfulness obligation under Section 12 RERA (no false or misleading statement in prospectus).
- c. Plan adherence obligation under Section 14(1) RERA (duty to complete project as per sanctioned plans).
- d. Consent requirement under Section 14(2) RERA (no alteration without 2/3rd allottee consent).
- e. Continuing obligations under Section 11(4)(a) RERA (promoter responsible till conveyance of common areas).
- f. Information rights under Section 19(1) RERA (allottees entitled to accurate information about layout plans and common areas).

Statutory Provisions of RERA Directly Engaged

43. The grievances pleaded in the suit directly invoke and engage Section 11, 12, 14, 17, 19, 31 of the RERA Act. I will deal with each provision.

Section 11 — Functions and Duties of Promoter

44. Section 11(3)(a) provides:

"(3) The promoter, at the time of the booking and issue of allotment letter shall be responsible to make available to the allottee, the following information, namely:— (a) sanctioned plans, layout plans, along with specifications, approved by the competent authority, by display at the site or such other place as may be specified by the regulations made by the Authority"

45. Therefore, as per Section 11(3)(a), the promoter has a statutory duty to furnish to allottees:

- a. Copies of the sanctioned plan;
- b. Copies of the layout plan;
- c. Specifications of the project as sanctioned by competent authority.

46. These documents must accurately reflect the project as approved and must be provided at or before the time of allotment. The appellants allege that the layout plan furnished to them (or depicted in the prospectus) did not disclose the fencing/gates between EWS and MIG/LIG blocks. If the fencing was part of the sanctioned plan approved by the Competent Authority, DDA's

failure to disclose it in the November 2023 prospectus and layout plan provided to allottees constitutes a violation of Section 11(3)(a).

47. Alternatively, if the fencing was not part of the sanctioned plan but is being imposed subsequently, it constitutes an unauthorized addition not disclosed under Section 11(3)(a).

48. Section 11(4)(a) provides:

"The promoter shall— (a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be:

Provided that the responsibility of the promoter, with respect to the structural defect or any other defect for such period as is referred to in sub-section (3) of section 14, shall continue even after the conveyance deed of all the apartments, plots or buildings, as the case may be, to the allottees are executed.

49. Thus, as per Section 11(4)(a), the promoter's obligations, responsibilities, and functions under the RERA Act continue and remain enforceable till:

- a. Conveyance of all apartments/plots to allottees;
- b. Conveyance of common areas to the association of allottees (RWA) or competent authority.

50. This is a continuing obligation provision that prevents promoters from claiming that their responsibilities cease upon completion certificate or occupancy certificate. DDA's continuing obligations under Section 11(4)(a) remain fully operative as no conveyance deeds have been executed; no RWA has been formed; common areas remain under DDA's control. Any action by DDA affecting common areas (such as installing fencing) is subject to scrutiny under RERA provisions. The appellants contend that such action, without disclosure, consent, or authorization, violates DDA's continuing obligations.

Section 12 — Obligations of Promoter Relating to Advertisement or Prospectus

51. Section 12 provides:

"12. Obligations of promoter regarding veracity of the advertisement or prospectus.—Where any person makes an advance or a deposit on the basis of the information contained in the notice, advertisement or prospectus, or on the basis of any model apartment, plot or building, as the case may be, and sustains any loss or damage by reason of any incorrect, false statement included therein, he shall be compensated by the

promoter in the manner as provided under this Act:

Provided that if the person affected by such incorrect, false statement contained in the notice, advertisement or prospectus, or the model apartment, plot or building as the case may be, intends to withdraw from the proposed project, he shall be returned his entire investment along with interest at such rate as may be prescribed and the compensation in the manner provided under this Act.”

52. Section 12 creates a statutory duty on the promoter to ensure that all information contained in notice or advertisement; prospectus or brochure; model apartment/flat; is accurate, true, and not misleading. If any person makes advance payment based on incorrect, false, or misleading statement, the promoter is liable to compensate the allottee; or to return entire investment with interest if the allottee chooses to withdraw.

53. Now, coming to the alleged violation. The appellants contend that the prospectus/brochure (November 2023) did not disclose the fencing/segregation. They allege that the prospectus depicted a unified housing complex with common amenities accessible to all residents. The omission or non-disclosure of fencing, if found to be correct, constitutes a misleading statement under Section 12 because:

- a. Allottees were led to believe they would have full access to all common areas;

- b. The layout plan shown in the prospectus did not depict segregation;
- c. Allottees made advance payments based on this representation;
- d. The subsequent installation of fencing changes the fundamental character of what was represented and sold.

Section 14 — Adherence to Sanctioned Plans and Project Specifications by the promoter

54. Section 14 is reproduced below:

“14. Adherence to sanctioned plans and project specifications by the promoter.—

(1) The proposed project shall be developed and completed by the promoter in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities.

(2) Notwithstanding anything contained in any law, contract or agreement, after the sanctioned plans, layout plans and specifications and the nature of the fixtures, fittings, amenities and common areas, of the apartment, plot or building, as the case may be, as approved by the competent authority, are disclosed or furnished to the person who agree to take one or more of the said apartment, plot or building, as the case may be, the promoter shall not make—

(i) any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures,

fittings and amenities described therein in respect of the apartment, plot or building, as the case may be, which are agreed to be taken, without the previous consent of that person:

Provided that the promoter may make such minor additions or alterations as may be required by the allottee, or such minor changes or alterations as may be necessary due to architectural and structural reasons duly recommended and verified by an authorised Architect or Engineer after proper declaration and intimation to the allottee.

Explanation.—For the purpose of this clause, “minor additions or alterations” excludes structural change including an addition to the area or change in height, or the removal of part of a building, or any change to the structure, such as the construction or removal or cutting into of any wall or a part of a wall, partition, column, beam, joist, floor including a mezzanine floor or other support, or a change to or closing of any required means of access ingress or egress or a change to the fixtures or equipment, etc.

(ii) any other alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common areas within the project without the previous written consent of at least two-thirds of the allottees, other than the promoter, who have agreed to take apartments in such building.

Explanation.—For the purpose of this clause, the allottee, irrespective of the

number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, etc., by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, shall be considered as one allottee only.

(3) In case any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development is brought to the notice of the promoter within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the promoter to rectify such defects without further charge, within thirty days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.”

55. Therefore, as per Section 14, the promoter has a statutory duty to:

- a. Complete the project in accordance with terms and conditions of agreement for sale;
- b. Complete the project as per the plans, layout plans and specifications as approved by the competent authority;
- c. Adhere to the sanctioned plans without deviation.

56. Moreover, as per Section 14, the promoter is prohibited from making any additions or alterations in sanctioned plan, layout plan, specifications; and from developments affecting the nature of fixtures, fittings, amenities; without obtaining previous written consent of at least 2/3rd of allottees (excluding promoter himself). The exception is the minor additions/alterations required by allottees or necessary due to architectural and structural reasons duly recommended and verified by an authorized Architect or Engineer.

57. The appellants allege that Section 14 has been violated by the Promoter. The appellants contend that:

- a. Installation of fencing constitutes an *"addition or alteration or development"* in the layout plan;
- b. Such alteration affects common areas and allottees' access to amenities;
- c. No prior written consent of 2/3rd allottees was obtained;
- d. The alteration does not fall within the exception for *"minor additions"* required by allottees or directed by competent authority;
- e. Therefore, the action violates Section 14.

Section 17 — Transfer of Title

58. Section 17(1) provides:

"17. Transfer of title.—(1) The promoter shall execute a registered conveyance

deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate. "

59. Therefore, as per Section 17(1), the promoter has a statutory duty to:

- a. Execute registered conveyance deeds in favor of allottees;
- b. Transfer undivided proportionate title in common areas to the association of allottees (RWA);
- c. Hand over physical possession of common areas to the RWA;

- d. Complete this transfer within three months from occupancy certificate (in absence of local law specifying different period).

60. The current status is that the occupancy certificate has been given. But conveyance has not been executed, common has not yet been transferred and RWA has not yet been formed. The consequence is that until conveyance is executed and common areas are transferred:

- a. Title remains with promoter (DDA);
- b. Promoter retains control over common areas;
- c. Promoter's obligations under Section 11(4)(a) continue;
- d. Any alteration to common areas by promoter is subject to RERA's regulatory jurisdiction.

Section 19 — Rights and Duties of Allottees

61. Section 19(1) provides:

"19. Rights and duties of allottees.—(1) The allottee shall be entitled to obtain the information relating to sanctioned plans, layout plans along with the specifications, approved by the competent authority and such other information as provided in this Act or the rules and regulations made thereunder or the agreement for sale signed with the promoter."

62. Therefore, as per Section 19(1), Allottees have statutory rights to obtain information relating to sanctioned plans,

layout plans, and specifications. As per the Appellants, the alleged violation is that they were not provided accurate information about fencing in layout plans which is a violation of Section 19(1).

Section 31 — Complaint Jurisdiction of RERA Authority

63. Having identified the specific RERA provisions allegedly violated, the next question is: ***Does the RERA Authority have jurisdiction to adjudicate such violations?***

64. Section 31(1) provides:

"31. Filing of complaints with the Authority or the adjudicating officer.—(1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder, against any promoter, allottee or real estate agent, as the case may be.

Explanation.—For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force. "

65. The analysis of Section 31(1) is as follows:

- a. Who can file a complaint? - *"Any aggrieved person"* — The appellants are allottees who claim to be aggrieved by DDA's action. They clearly fall within this definition.
- b. What can be complained about? - *"Any violation or contravention of the provisions of this Act"* — The appellants allege violations of Sections 11, 12, 14, 17, and 19 of the Act. These are express provisions of the Act, and their violation constitutes a valid subject matter for complaint.
- c. Against whom can the complaint be filed? - *"Against any promoter"* — DDA is admittedly the promoter. A complaint can be filed against it.

66. Section 31 expressly empowers the RERA Authority to entertain complaints regarding *"any violation or contravention of the provisions of this Act"* against *"any promoter."* The present dispute, which alleges violations of Sections 11, 12, 14, 17, and 19 by DDA (promoter), is precisely the kind of matter Section 31 empowers the Authority to adjudicate.

Analysis and Application

Identification of the Core Dispute

67. Stripping away the peripheral arguments and focusing on the essence of the dispute, the appellants' grievances can be reduced to the following core legal questions:

- a. Did DDA comply with its disclosure obligations under Section 11(3)(a) by furnishing accurate layout plans showing the fencing?
- b. Was the prospectus/brochure issued in November 2023 misleading within the meaning of Section 12 by omitting to disclose the fencing?
- c. Does the installation of fencing constitute a deviation from the sanctioned/layout plan under Section 14?
- d. If it is a deviation or alteration, did DDA obtain the required 2/3rd allottee consent under Section 14?
- e. While common areas remain under DDA's control (pre-conveyance phase), is DDA's action subject to its continuing obligations under Section 11(4)(a) and Section 17?
- f. Were appellants' information rights under Section 19(1) violated by non-disclosure of the fencing?

68. Each of these questions directly invokes specific provisions of the RERA Act (Sections 11, 12, 14, 17, 19) and requires interpretation and application of those provisions to the facts.

Are These Questions Within RERA's Empowerment?

69. The first question before the Court is - "*Question 1: Can RERA determine whether a promoter complied with Section 11(3)(a)?*". The answer is unequivocally 'Yes'. Section 34(f) mandates the Authority to "*ensure compliance of the obligations cast upon the promoters*" under the Act. Section 11(3)(a) is an

express obligation. Section 31 empowers the Authority to adjudicate complaints regarding "*any violation or contravention*" of Act provisions. A complaint that the promoter violated Section 11(3)(a) by providing inaccurate layout plans is squarely within Section 31 jurisdiction.

70. The second question that arises before this Court is - "*Question 2: Can RERA determine whether a prospectus was misleading under Section 12?*" The answer to this question is also in affirmative. Section 12 itself provides the remedy — compensation or refund with interest. The determination of whether a statement in the prospectus was "*incorrect, false or misleading*" must be made by some adjudicatory authority. The Act does not vest this power in civil courts; it vests it in the RERA Authority through the complaint mechanism under Section 31.

71. Now, the third question before the Court is - *Can RERA determine whether an action constitutes deviation from sanctioned plan under Section 14(1)?* The answer to this question is also 'Yes'. Section 14(1) creates a statutory duty to complete the project "*as per sanctioned plans, layout plans and specifications.*" Determining whether a promoter's action constitutes compliance or deviation requires:

- a. Examining the sanctioned plans;
- b. Examining the layout plans provided to allottees;
- c. Determining whether the action is authorized by those plans or is an unauthorized deviation.

72. This is precisely the kind of factual and legal determination that a specialized regulatory authority like RERA, with technical expertise in real estate, construction, and urban planning, is equipped to make. Civil courts lack such expertise.

73. Coming to the fourth question before the Court - "*Question 4: Can RERA determine whether 2/3rd allottee consent was required and obtained under Section 14(2)?*". The answer is 'Yes'. Section 14 is a procedural safeguard requiring allottee consent for alterations. Determining:

- a. Whether an action constitutes an "*addition, alteration or development*";
- b. Whether it falls within the exceptions for "*minor additions/alterations*";
- c. Whether 2/3rd consent was obtained;

are all factual and legal questions that the RERA Authority is empowered to adjudicate under Section 31 read with Section 34(f).

74. The fifth question before the Court is - "*Question 5: Can RERA adjudicate disputes concerning common areas during pre-conveyance phase?*". The answer to this question is also in affirmative. Section 11(4)(a) expressly provides that the promoter remains responsible for common areas till their conveyance to the association of allottees. Section 17 mandates conveyance of common areas. Until conveyance occurs title remains with promoter; Promoter's obligations continue and RERA's regulatory jurisdiction subsists.

75. Sixth question before the Court is - “*Question 6: Can RERA adjudicate whether allottees' information rights under Section 19(1) were violated?*” The answer again is ‘Yes’. Section 19 confers a statutory right on allottees to “*obtain the information relating to sanctioned plans, layout plans*” and common areas. A complaint that this right was violated by non-disclosure or provision of inaccurate information is within Section 31 jurisdiction.

Synthesis

76. As discussed, every single legal question raised by the appellants' suit invokes specific provisions of the RERA Act (Sections 11, 12, 14, 17, 19). There is not a single aspect of the appellants' grievances that falls outside the statutory domain of the RERA Act or the jurisdictional empowerment of the RERA Authority under Section 31.

Rebuttal of Counter-Arguments

77. The appellants have raised multiple counter-arguments, which are dealt with in the subsequent paragraphs. The first argument on behalf of the Appellant is that the dispute before the Court is a pure civil dispute about property rights. This argument is factually incorrect. The dispute concerns:

- a. Pre-conveyance phase (no title transferred yet);
- b. Promoter's statutory obligations under RERA;
- c. Regulatory compliance (sanctioned plan adherence, consent requirements, disclosure obligations).

78. Property rights in common areas vest in allottees only after conveyance under Section 17. Until then, the relationship is regulatory (promoter-allottee under RERA), not proprietary (co-owner relationships under Transfer of Property Act).

79. The second arguments of the Appellant is that RERA is only for delay in possession and financial matters. This is again a misconception. RERA's jurisdiction is not limited to delay and refunds. Sections 11-19 create a comprehensive regulatory framework covering:

- a. Disclosure obligations (Section 11);
- b. Truthfulness of advertisements (Section 12);
- c. Plan adherence (Section 14);
- d. Quality standards and defect liability (Section 14);
- e. Transfer of title and common areas (Section 17);
- f. Allottees' information rights (Section 19).

Conclusion on Point of Determination No. 1

80. Having undertaken a comprehensive analysis, the conclusion on Point of Determination No. 1 is that the present suit, filed by allottees of a RERA-registered housing project against the promoter (DDA) alleging non-disclosure in prospectus, deviation from layout plan, and unauthorized alteration of common areas without allottee consent, concerns matters which the RERA Authority is empowered to determine under Sections 11, 12, 14, 17, 19, and 31 of the RERA Act, 2016. The dispute falls squarely within

the category of "*matters which the RERA Authority is empowered to determine*" for purposes of the jurisdictional bar under Section 79 of the RERA Act. Point of Determination No. 1 is answered in the affirmative, in favor of the respondents and against the appellants.

POINT OF DETERMINATION NO. 2 - "WHETHER THE RERA AUTHORITY POSSESSES ADEQUATE REMEDIAL POWERS UNDER SECTIONS 34(F), 35, 36, AND 37 OF THE RERA ACT TO GRANT THE RELIEFS SOUGHT IN THE SUIT, NAMELY PERMANENT AND MANDATORY INJUNCTIONS, AND IF SO, WHETHER SUCH REMEDIAL ADEQUACY RESULTS IN OUSTER OF CIVIL COURT JURISDICTION UNDER THE PRINCIPLES LAID DOWN IN *DHULABHAI V. STATE OF MADHYA PRADESH*?"

81. Having determined in Point of Determination No. 1 that the subject matter of the present suit falls within the RERA Authority's statutory domain, this Court must now undertake the second critical inquiry: *whether the RERA Authority possesses adequate and efficacious remedial powers to grant the specific reliefs sought by the appellants.*

82. This determination is essential because the mere fact that a dispute falls within a statutory tribunal's subject-matter jurisdiction does not automatically oust civil court jurisdiction. The tribunal must also possess adequate remedies to do what civil courts would ordinarily do. This is the test of remedial adequacy laid down by the Hon'ble Supreme Court in *Dhulabhai (supra)*.

83. The appellants seek two principal reliefs:

- a. Permanent Injunction: A decree restraining DDA from installing, erecting, or constructing any openable gates, fencing, or barriers between the EWS blocks and MIG/LIG blocks.
- b. Mandatory Injunction: A decree directing DDA to remove any gates, fencing, or barriers already installed and to restore the common areas to their original state as represented in the brochure and sanctioned layout plan.

84. Both reliefs are equitable remedies traditionally associated with the inherent and statutory powers of civil courts under Order 39 CPC (temporary injunction) and Section 38 of the Specific Relief Act, 1963 (permanent and mandatory injunctions). The question is whether a statutory tribunal like the RERA Authority, with limited and defined powers, can grant such equitable reliefs.

The Test in *Dhulabhai (supra)*

85. The foundational principles governing the adequacy of alternate remedies and ouster of civil court jurisdiction were laid down by Hon'ble Supreme Court in *Dhulabhai (supra)*. The Hon'ble Supreme Court enunciated the test for ouster of civil court jurisdiction and held as follows:

"Where the statute gives finality to the orders of the special tribunals the civil

courts' jurisdiction must be held to be excluded if there is adequate remedy to do what the civil courts would normally do in a suit. Such provision, however, does not exclude cases where the provisions of the particular Act have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principles of judicial procedure."

86. The phrase "*adequate remedy to do what the civil courts would normally do*" is the touchstone. The test is not whether the statutory tribunal can do *something*, but whether it can do what civil courts would do in terms of:

- a. Nature of relief (declaratory, injunctive, compensatory);
- b. Scope of relief (interim and final);
- c. Efficacy of relief (enforceable and executable);
- d. Completeness of relief (addressing all aspects of the dispute).

87. Therefore, if the statutory tribunal lacks power to grant any essential relief that a civil court would grant, the remedy is inadequate, and civil court jurisdiction is not ousted.

88. The Hon'ble Supreme Court's framework in **Dhulabhai (supra)** requires a two-stage inquiry:

- a. Stage 1: Does the subject matter of the dispute fall within the statutory tribunal's empowerment? (Answered affirmatively in Point of Determination No. 1)

- b. Stage 2: Does the statutory tribunal possess adequate remedies to grant the reliefs sought? (To be answered in this determination)

89. Only if both conditions are satisfied does the civil court's jurisdiction stand ousted.

The Analysis of the reliefs sought

90. Before examining RERA's remedial powers, it is necessary to precisely identify what the appellants seek and what powers civil courts would exercise to grant such reliefs.

Relief No. 1: Permanent Injunction (Prohibitory)

91. Prayer made in the Complaint is reproduced below:

"A decree of permanent injunction be passed restraining the Defendant No. 1 (DDA), its officers, servants, agents, and representatives from installing, erecting, or constructing any openable gates, fencing, or barrier between the EWS blocks and the MIG/LIG blocks in the housing project at Sector-16B, Dwarka, New Delhi."

92. This is a prohibitory injunction (also called a negative injunction or restraining order). It seeks to prevent a future action by the defendant. Civil courts grant such relief under Section 38 of the Specific Relief Act, 1963 (perpetual injunctions) and under Order 39 Rules 1 & 2 CPC (temporary injunctions pending final adjudication).

93. To grant a prohibitory injunction, the court must find:
- The plaintiff has a prima facie legal right to be protected;
 - The defendant's proposed action would violate that right;
 - The plaintiff would suffer irreparable injury if the injunction is not granted;
 - The balance of convenience favors granting the injunction;
 - There is no adequate alternate remedy (monetary compensation insufficient).
94. The question before the Court is - *“Can RERA Authority grant an equivalent prohibitory order restraining the promoter from taking a proposed action?”*

Relief No. 2: Mandatory Injunction

95. Prayer made in the Plaint is reproduced below:

"A decree of mandatory injunction be passed directing the Defendant No. 1 (DDA) to remove any gates, fencing, or barriers already installed between the EWS blocks and MIG/LIG blocks and to restore the common areas to their original state as represented in the brochure and sanctioned layout plan."

96. This is a mandatory injunction (also called an affirmative injunction or positive order). It compels the defendant to perform a specific act (removal and restoration). Civil courts grant such relief under Section 39 of the Specific Relief Act (mandatory injunctions in specific cases).

97. Mandatory injunctions are granted only where:
- a. The plaintiff has a clear legal right that has been violated;
 - b. The defendant has committed a continuing wrongful act that must be undone;
 - c. Irreparable injury would result if the status quo ante is not restored;
 - d. Damages are not an adequate remedy;
 - e. The court can effectively supervise the execution of the order.
98. The question before the Court is - “*Can RERA Authority issue an equivalent mandatory order directing the promoter to undo an action already taken and restore the original position?*”

RERA's Remedial Powers — Statutory Provisions

99. The RERA Act confers remedial powers on the Authority through multiple interconnected provisions. These must be read cumulatively and harmoniously to understand the full amplitude of RERA's remedial arsenal.

Section 34(f) — Functions of Authority (Compliance Enforcement)

100. Section 34(f) is reproduced below:

"34. Functions of Authority.—The functions of the Authority shall include—

...(f) ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder;"

101. The word "*shall*" in Section 34 makes this a mandatory duty, not a discretionary power. The Authority is bound to ensure compliance. Moreover, the phrase "*ensure compliance*" is of wide import. It includes monitoring compliance; investigating violations; adjudicating whether violations occurred; directing compliance where violations are found; enforcing compliance through appropriate orders and sanctions.

102. The compliance duty extends to "*obligations cast upon promoters*" under:

- a. The Act itself (Sections 3-19);
- b. Rules and regulations made thereunder;
- c. This includes all obligations under Sections 11, 12, 14, 17, and 19 alleged to be violated in the present case.

103. To "*ensure compliance*," the Authority must have power to prohibit actions that would violate obligations (prohibitory orders); compel performance of obligations not performed (mandatory orders); and rectify violations already committed (restorative orders). Without these powers, the Authority cannot effectively "*ensure compliance*."

104. Therefore, Section 34(f) is a broad empowerment that forms the statutory foundation for the Authority's remedial powers.

It is not merely a statement of objective but a conferment of power to achieve that objective.

Section 37 — Powers of Authority to issue Directions

105. Section 37 provides:

"37. Powers of Authority to issue directions.—The Authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary and such directions shall be binding on all concerned."

106. The Authority "*may... issue such directions*" — this is a discretionary power triggered when necessary for discharging functions. Directions can be issued to promoters (like DDA in the present case); allottees; and real estate agents. The phrase "*such directions... as it may consider necessary*" is expansive and flexible. It is not limited to any particular kind or category of direction. The only limitation is that the direction must be *necessary for discharge of functions under the Act*.

107. The nature of the directions is binding. Directions are "*binding on all concerned*" — this creates legal enforceability. A direction has the force of a statutory order, not merely advisory or recommendatory status. Thus, the Authority can issue directions that:

- a. Prohibit a promoter from taking a contemplated action (e.g., "Do not install fencing");
- b. Mandate a promoter to perform an action (e.g., "Remove the installed fencing and restore common areas");
- c. Regulate the manner of performance (e.g., "Complete removal within 30 days under supervision of specified authority").

108. Thus, Section 37, RERA Act is a general remedial power that enables the Authority to issue prohibitory and mandatory directions to promoters. This is functionally equivalent to granting prohibitory and mandatory injunctions.

Section 36 — Power to issue Interim Orders

109. Section 36 provides:

"36. Power to issue interim orders.— Where during an inquiry, the Authority is satisfied that an act in contravention of this Act, or the rules and regulations made thereunder, has been committed and continues to be committed or that such act is about to be committed, the Authority may, by order, restrain any promoter, allottee or real estate agent from carrying on such act until the conclusion of such inquiry or until further orders, without giving notice to such party, where the Authority deems it necessary."

110. The power under Section 36 is exercisable "*during an inquiry*". This is the interim relief provision, analogous to Order 39 CPC in civil courts. Under Section 37, the Authority can, by order, restrain any promoter, allottee or real estate agent from carrying on any act in contravention of the RERA Act until the conclusion of the inquiry. Section 36 confers interim remedial powers functionally equivalent to civil courts' powers under Order 39 CPC. For example, if appellants filed a complaint under Section 31 alleging Section 14(2) violation, the Authority could, under Section 36 issue an interim order restraining DDA from installing further fencing pending inquiry (prohibitory interim relief) or Issue an interim order directing DDA to maintain status quo or take protective measures pending inquiry.

Section 37 — General Power to Issue Directions (Final Orders)

111. Section 37 is reproduced below:

"37. Powers of Authority to issue directions.—The Authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary and such directions shall be binding on all concerned. "

112. As per Section 37, the Authority "*may issue such directions as it may consider necessary.*" This is discretionary ("may") but wide ("such directions as it may consider necessary").

Moreover, the nature of the directions is “*binding*”. Another important aspect to be noted is that the directions are such which the Authority may consider necessary for the purpose of discharging its functions. One such function of the Authority under Section 34(f) is “*to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder*” . As per Section 14, it is the obligation of the promoter to adhere to the sanction plan and the layout plan. Therefore, to ensure that the promoter complies with the obligation under Section 14, the Court, under Section 34, may issue such direction as it may consider necessary. Resultantly, under Section 37, the Authority can:

- a. Issue prohibitory directions: “*Do not proceed with installation of fencing without obtaining 2/3rd allottee consent as required under Section 14(2).*”
- b. Issue mandatory directions: “*Remove the installed fencing that was not disclosed in the prospectus (Section 11(3)(a) violation) and for which no allottee consent was obtained (Section 14(2) violation), and restore the common areas to the layout shown in the sanctioned plan (Section 14(1) obligation).*”

113. The remedial powers conferred by Sections 34(f), 35, 36, and 37 must be read cumulatively and harmoniously, not in isolation. When these provisions are read together, the RERA Authority possesses:

- a. Interim Prohibitory Power (Section 36): Restrain the promoter from proceeding with action pending inquiry — equivalent to temporary injunction under Order 39 Rule 1 CPC.
- b. Final Prohibitory Power (Section 37): Direct the promoter not to proceed with a violation — equivalent to permanent prohibitory injunction under Section 38 Specific Relief Act.
- c. Final Mandatory Power (Section 37): Direct the promoter to "*remedy the violations*" by undoing the wrongful act and restoring the lawful position — equivalent to mandatory injunction under Section 38 read with Section 39 Specific Relief Act.

Enforcement Mechanisms — Ensuring Compliance

114. Remedial adequacy is not just about power to pass orders but also power to ensure compliance. If orders are passed but cannot be enforced, the remedy is illusory and inadequate.

Section 40 and 63 — Penalty for Non-Compliance with Orders

115. Section 40 provides:

"40. Recovery of interest or penalty or compensation and enforcement of order, etc.—(1) If a promoter or an allottee or a real estate agent, as the case may be, fails to pay any interest or penalty or compensation imposed on him, by the adjudicating officer or the Regulatory Authority or the Appellate Authority, as

the case may be, under this Act or the rules and regulations made thereunder, it shall be recoverable from such promoter or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue.

(2) If any adjudicating officer or the Regulatory Authority or the Appellate Tribunal, as the case may be, issues any order or directs any person to do any act, or refrain from doing any act, which it is empowered to do under this Act or the rules or regulations made thereunder, then in case of failure by any person to comply with such order or direction, the same shall be enforced, in such manner as may be prescribed.”

116. Section 63 provides:

“63. Penalty for failure to comply with orders of Authority by promoter.—If any promoter, who fails to comply with, or contravenes any of the orders or directions of the Authority, he shall be liable to a penalty for every day during which such default continues, which may cumulatively extend up to five per cent., of the estimated cost of the real estate project as determined by the Authority.”

117. Therefore, the RERA Act has provided sufficient enforcement mechanisms to ensure the orders of the Authority are complied with.

Addressing Arguments of the Appellant

118. It is argued on behalf of the Appellant that Sections 35, 36, and 37 do not use the word "Injunction" and thus injunctions cannot be granted under the said provisions. It is a settled law that the label is irrelevant; what matters is the substance and effect of the power. RERA's has sufficient powers to issue binding directions that prohibit future action (Section 36, Section 37); compel performance of specific acts (Section 37); and the directions are also enforceable through penalties. Thus, RERA powers are functionally identical to injunctions, even though not labeled as such. A civil court's injunction and RERA's direction differ only in name, not in nature, scope, or enforceability.

119. Secondly, it is argued on behalf of the Appellant that RERA lacks power of judicial review of Screening Committee approval. This argument is factually incorrect. The issue is not judicial review of Screening Committee's decision but enforcement of RERA's own statutory provisions (Sections 11, 12, 14).

120. Even if the Screening Committee approved the fencing in June 2023:

- a. Section 11 obligates the promoter to disclose it in the prospectus;
- b. Section 14(2) requires 2/3rd allottee consent for alterations;
- c. These are RERA obligations independent of Screening Committee approval.

121. RERA is not reviewing the Screening Committee's decision; it is determining whether the promoter complied with RERA's disclosure and consent requirements, which is squarely within its jurisdiction.

Conclusion on Point of Determination No. 2:

122. The RERA Authority possesses adequate remedial powers under Sections 34(f), 35, 36, and 37 of the RERA Act to grant the reliefs sought in the suit, namely permanent and mandatory injunctions (styled as prohibitory and mandatory directions under RERA).

123. The cumulative effect of these provisions vests in the Authority comprehensive powers to:

- a. Pass prohibitory and mandatory orders (interim and final);
- b. Ensure strict compliance thereof;
- c. Rectify unauthorized actions by promoters;
- d. Enforce compliance through penalties.

124. These powers are functionally equivalent to the injunctive powers of civil courts under Order 39 CPC and the Specific Relief Act, 1963.

125. Such remedial adequacy, combined with the determination in Point of Determination No. 1 that the subject matter falls within RERA's jurisdiction, results in ouster of civil court jurisdiction under the principles laid down in ***Dhulabhai (supra)***.

126. Therefore, Point of Determination No. 2 is answered in the affirmative, in favor of the respondents and against the appellants.

POINT OF DETERMINATION NO. 3 - "WHETHER SECTION 79 OF THE RERA ACT, WHICH BARS CIVIL COURT JURISDICTION FOR MATTERS RERA IS EMPOWERED TO DETERMINE AND PROHIBITS COURTS FROM GRANTING INJUNCTIONS IN RERA MATTERS, OPERATES TO OUST CIVIL COURT JURISDICTION IN RESPECT OF THE PRESENT SUIT?"

127. This Point of Determination requires the Court to apply the express statutory bar contained in Section 79 of the RERA Act to the facts and circumstances of the present case. Having determined in Point of Determination No. 1 that the subject matter of the suit falls within the RERA Authority's jurisdiction, and having determined in Point of Determination No. 2 that the Authority possesses adequate remedial powers to grant the reliefs sought, the Court must now examine whether these findings, when combined with the express language of Section 79, operate to oust civil court jurisdiction.

128. Section 79 of the RERA Act operates on two distinct limbs. The first limb creates a jurisdictional bar, providing that no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the adjudicating officer or the Appellate Tribunal is empowered by or under this Act

to determine. The second limb creates an injunction bar, providing that no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act. Both limbs are relevant to the present case and require careful examination.

The Text and Structure of Section 79

129. Section 79 of the RERA Act reads as follows:

"79. Bar of jurisdiction.—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the adjudicating officer or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act. "

130. The provision is structured in two parts connected by the conjunction "*and*," indicating that both parts operate independently and cumulatively. The first part creates a positive bar on civil court jurisdiction for matters within RERA's empowerment. The second part creates a negative prohibition on any court granting injunctions in respect of actions under the Act. The use of the word "*shall*" in both parts indicates that the bar is mandatory and absolute, not discretionary or qualified.

131. The phrase "*in respect of any matter which the Authority is empowered by or under this Act to determine*" is of wide

import. It does not require that the Authority must have already determined the matter or that a complaint must first be filed before RERA. The test is whether the matter falls within the category of disputes that the Authority has statutory power to determine. If the answer is affirmative, the jurisdictional bar operates from the inception, preventing civil courts from entertaining the suit at all.

132. A bare perusal of Section 79 would make it clear that the bar of jurisdiction of civil court is only in relation to the matters which the RERA authority or the adjudicating officer or the Appellate Tribunal is empowered to decide by or under the 2016 Act. In other words, so far as the jurisdiction of the civil court is concerned, the same stands ousted only qua the matters which the RERA authority or the Adjudicating Officer or the Appellate Tribunal is empowered to decide. Therefore, the test for application of Section 79 is whether the disputed matter falls within RERA's empowerment.

Application to the Present Suit

133. The present suit alleges that DDA, being the promoter of a RERA-registered project, has violated its statutory obligations by installing fencing between EWS and MIG/LIG blocks without disclosure in the prospectus, in deviation from the layout plan, and without obtaining 2/3rd allottee consent. These allegations directly invoke Sections 11(3)(a), 12, 14(1), 14(2), 17, and 19(1) of the RERA Act. Each of these provisions creates specific statutory obligations on promoters and correlative rights for allottees. Section

31 expressly empowers the RERA Authority to entertain complaints regarding *"any violation or contravention of the provisions of this Act"* against *"any promoter."*

134. The first question under Section 79 is: *Is the present suit "in respect of any matter which the Authority is empowered to determine"?* The answer, based on the determinations in Points 1 and 2, is unequivocally affirmative. The suit concerns violations of Sections 11, 12, 14, 17, and 19, which constitute a complete cause of action under Section 31. The matter is emphatically within RERA's statutory domain.

135. The second question is: *"Does the jurisdictional bar operate automatically once it is established that the matter is within RERA's empowerment?"* The answer, based on the mandatory language of Section 79 (*"No civil court shall have jurisdiction"*), is again affirmative. The provision does not contain any saving clause, exception, or qualification. It is an absolute bar. The bar is not discretionary and admits of no exception where the statutory conditions are satisfied.

The Injunction Bar — Second Limb of Section 79

136. The second limb of Section 79 provides that *"no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act."* This provision independently bars courts from granting injunctive relief in RERA matters. The

language is categorical and unambiguous. The phrase "*no injunction shall be granted*" is prohibitory and absolute. The phrase "*by any court*" includes civil courts. The phrase "*in respect of any action taken or to be taken*" covers both past actions (already installed fencing) and future actions (proposed installation).

137. The critical interpretive question is: What constitutes an "*action taken or to be taken in pursuance of any power conferred by or under this Act*"? Does DDA's installation of fencing qualify as such an action? This question involves competing contentions. DDA contends that the fencing was approved by the 413th Screening Committee on 15.06.2023, forms part of the sanctioned plan, and is being installed in pursuance of DDA's power and obligation under Section 14(1) to complete the project as per sanctioned plans. The appellants, conversely, contend that the fencing was not disclosed in the November 2023 prospectus, constitutes an unauthorized alteration requiring 2/3rd allottee consent under Section 14(2), and therefore is not an action "*in pursuance of any power conferred*" but is a violation of the Act.

138. This dispute about whether DDA's action is authorized or unauthorized under the RERA Act is itself a disputed question of fact and law that must be adjudicated on merits. The proper authority to determine whether DDA's action complies with Sections 11, 12, and 14 or violates them is the RERA Authority, which has statutory jurisdiction under Section 31 and power to examine sanctioned plans and prospectus disclosures.

139. Significantly, even if the civil court were to assume jurisdiction (which it cannot), the injunction bar in Section 79 would prevent it from granting the primary reliefs sought by the appellants, namely permanent and mandatory injunctions. The suit would thus become infructuous. This reinforces the conclusion that Parliament intended RERA matters to be adjudicated exclusively by RERA authorities, not civil courts.

The Principle of Express Ouster

140. The law on ouster of civil court jurisdiction recognizes a distinction between express bars and implied bars. Where a statute contains an express provision ousting civil court jurisdiction (as Section 79 does), the courts give effect to the legislative intent reflected in the express language. Section 79 is an express bar. The phrase "*No civil court shall have jurisdiction*" is unambiguous, categorical, and mandatory. It admits of no exception where the statutory conditions are satisfied. The Court has already determined in Point of Determination No. 2 that RERA's remedies are adequate. The combination of express statutory bar plus adequate alternate remedy creates a complete ouster of civil court jurisdiction. There is no room for the civil court to retain residual or concurrent jurisdiction where Parliament has expressly and unambiguously barred it.

141. The RERA Act is a beneficial legislation which has been enacted to protect the interest of consumers in the real estate sector, and that the Act should be interpreted liberally to advance its

purpose. Allowing civil courts to entertain suits concerning RERA violations would defeat the legislative purpose of channelizing such disputes to a specialized forum with technical expertise, expeditious procedures, and comprehensive enforcement powers.

The Principle Against Concurrent Jurisdiction

142. The appellants argue that even if RERA has jurisdiction, civil courts retain concurrent jurisdiction under Section 9 CPC as courts of plenary jurisdiction. This argument, however, is inconsistent with the express language of Section 79. The principle is well-established that where a statute creates a special forum with exclusive jurisdiction, civil court jurisdiction under Section 9 CPC is ousted. Section 9 CPC itself recognizes this by providing that courts shall have jurisdiction to try all suits of a civil nature *"excepting suits of which their cognizance is either expressly or impliedly barred."* Section 79 is an express bar. It specifically provides that *"no civil court shall have jurisdiction to entertain any suit or proceeding"* in respect of RERA matters. This express language operates as an exception to Section 9 CPC.

143. Moreover, permitting concurrent jurisdiction would lead to undesirable consequences: forum shopping, conflicting decisions between civil courts and RERA authorities on identical disputes, multiplicity of proceedings, abuse of process, and defeat of the legislative purpose of creating a specialized forum. When Parliament creates specialized tribunals with comprehensive

powers, the intent is to ensure uniform and expert adjudication, not to create competing forums with concurrent jurisdiction.

Distinguishing *Sau Rajani (supra)*

144. The appellants have relied heavily on the Hon'ble Supreme Court's decision in ***Sau Rajani v. Sau Smita & Another, 2022 SCC ONLINE SC 1016***, to argue that the present dispute falls outside RERA's jurisdiction and therefore Section 79 does not apply. In ***Sau Rajani (supra)***, the plaintiff sought enforcement of personal easement rights (light, air, privacy, water connection) against an individual encroacher who was a co-resident in a MHADA housing society. The plaintiff sought removal of unauthorized construction by the co-resident. The Hon'ble Supreme Court held that the complaint filed by Sau Rajani before MHADA did not seek any relief against MHADA in its capacity as a builder and developer or in its capacity as an administrator of the land, and that Sau Rajani's grievance was against encroachment by another occupant of the right to light, air and privacy and obstructing free flow of water in the gutter constructed by MHADA.

145. The Hon'ble Supreme Court further held that the complaint against another tenant/occupant in respect of enjoyment of easement and other amenities provided within the premises or colony by MHADA cannot be treated as being within the domain of powers and jurisdiction of MHADA under the MHADA Act. The crucial distinguishing feature is that in ***Sau Rajani (supra)***, the dispute was genuinely inter se between two co-residents, with

MHADA being neither a party nor a violator. The statutory authority had no role in the alleged violation and no power to adjudicate disputes between individual residents regarding personal easement rights.

146. The present case is fundamentally different. The principal defendant is DDA, which is admittedly the promoter under the RERA Act. All principal reliefs are sought against DDA, not against co-residents. The cause of action is DDA's alleged violation of its statutory obligations under Sections 11, 12, 14, 17, and 19 of the RERA Act. Defendants Nos. 2-8 (MIG/LIG allottees) were impleaded subsequently, only after they raised jurisdictional objections to support DDA's position. They are not the primary violators but merely supporting parties. The dispute is fundamentally about the promoter's compliance with RERA provisions, not about private rights between co-residents. The ratio of *Sau Rajani (supra)* is therefore inapplicable, and that case is distinguishable on facts and law.

Temporal Jurisdiction: Pre-Conveyance Phase

147. The appellants contend that RERA's jurisdiction terminates upon issuance of occupancy certificate (20.04.2024), and that post-occupancy disputes concerning common areas are civil matters involving property rights outside RERA's jurisdiction. This argument is factually and legally incorrect. Section 11(4)(a) of the RERA Act provides in clear and unambiguous language that the promoter shall “*be responsible for all obligations, responsibilities*

and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be”

148. The provision is categorical. The promoter's obligations continue "*till conveyance*" of common areas, not "*till occupancy certificate*." Occupancy certificate and conveyance are distinct legal events with different consequences. Occupancy certificate under building regulations merely certifies that the building is fit for habitation; it is a completion milestone, not a transfer of ownership. Conveyance under Section 17 RERA is the legal transfer of title to allottees. The admitted position in the present case is that no conveyance deeds have been executed, no RWA has been formed, and common areas remain under DDA's exclusive possession and control. Therefore, Section 11(4)(a) remains fully operative, DDA's continuing obligations under RERA subsist, and RERA's regulatory jurisdiction continues.

Constitutional and Policy Issues

149. The appellants have raised constitutional issues, arguing that the fencing violates Articles 14 and 15 (equality and non-discrimination) and Article 21 (dignity) of the Constitution, and that such constitutional issues are beyond RERA's jurisdiction and require civil court adjudication. While it is true that RERA

Authority, being a statutory tribunal, cannot directly adjudicate constitutional violations or strike down actions as unconstitutional, this does not preserve civil court jurisdiction under Section 9 CPC. If the appellants believe that DDA's action violates constitutional rights, the appropriate remedy is under Articles 226 and 227 of the Constitution before the High Court, not a civil suit under Section 9 CPC.

150. Moreover, constitutional values can inform RERA's adjudication without requiring direct constitutional adjudication. In determining whether DDA's action violates Sections 11, 12, 14, and 19 of the RERA Act, the Authority can consider whether the action was disclosed in the prospectus, whether it complies with sanctioned plans, whether 2/3rd allottee consent was obtained, and whether it serves a legitimate purpose. If the Authority determines that the action violates RERA provisions and orders its removal, the constitutional concerns regarding discrimination and segregation are effectively addressed without need for separate civil adjudication.

Conclusion on Point of Determination No. 3

151. The Court has determined in Point of Determination No. 1 that the subject matter of the present suit falls within the RERA Authority's jurisdiction under Sections 11, 12, 14, 17, 19, and 31 of the RERA Act. The Court has determined in Point of Determination No. 2 that the RERA Authority possesses adequate remedial powers under Sections 34(f), 35, 36, and 37 to grant the reliefs sought, namely permanent and mandatory injunctions. These two

determinations, when combined with the express language of Section 79, lead inexorably to the conclusion that civil court jurisdiction is ousted in respect of the present suit.

152. The Court, after careful consideration of the statutory provisions, the admitted factual position and the principles governing ouster of civil court jurisdiction, is of the considered view that Section 79 of the RERA Act operates to oust civil court jurisdiction in respect of the present suit. The first limb of Section 79 bars civil courts from entertaining suits concerning matters RERA is empowered to determine. The Court has determined that the present suit concerns violations of Sections 11, 12, 14, 17, and 19, which constitute matters within RERA's jurisdiction under Section 31. The second limb of Section 79 bars courts from granting injunctions in RERA matters, thereby independently preventing the civil court from granting the primary reliefs sought.

153. The express statutory bar under Section 79, combined with the adequacy of RERA's remedial powers (as determined in Point of Determination No. 2), leads to the inescapable conclusion that civil court jurisdiction is completely ousted. The appellants are not without remedy; they have a complete and effective remedy before the RERA Authority under Section 31, with full powers to grant prohibitory and mandatory reliefs, enforce compliance through penalties.

154. Therefore, Point of Determination No. 3 is answered in the affirmative, in favor of the respondents and against the

appellants. Section 79 of the RERA Act operates to oust civil court jurisdiction in respect of the present suit.

POINT OF DETERMINATION NO. 4: - "WHETHER SECTION 88 OF THE RERA ACT, WHICH PROVIDES THAT RERA IS 'IN ADDITION TO, AND NOT IN DEROGATION OF' OTHER LAWS, PRESERVES CIVIL COURT JURISDICTION UNDER SECTION 9 CPC, OR WHETHER IT MUST BE READ HARMONIOUSLY WITH SECTION 79?"

155. This Point of Determination requires the Court to resolve what appears, at first blush, to be a conflict between two provisions of the RERA Act. Section 79 creates an express bar on civil court jurisdiction for matters RERA authorities are empowered to determine. Section 88, on the other hand, provides that the provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force. The appellants contend that Section 88 operates as a savings clause that preserves civil court jurisdiction under Section 9 CPC, notwithstanding Section 79. The respondents contend that Section 88 must be read harmoniously with Section 79, and that it saves remedies under other special statutes (like the Consumer Protection Act, Arbitration Act, and Insolvency and Bankruptcy Code), not the residual jurisdiction of civil courts.

The Competing Interpretations

156. The appellants advance the interpretation that the phrase "*other law for the time being in force*" in Section 88 includes the Code of Civil Procedure, 1908, which confers residual jurisdiction on civil courts under Section 9 CPC. They argue that the phrase "*in addition to, and not in derogation of*" means that RERA does not take away or diminish rights and remedies available under other laws, including the right to approach civil courts. They contend that Parliament intended to provide allottees with multiple fora including RERA, Consumer Forums, Arbitration, and civil courts to enforce their rights. They argue that if Section 79 bars civil courts while Section 88 saves them, the two provisions must be read harmoniously by holding that Section 88 overrides Section 79 and preserves civil court jurisdiction.

157. The respondents, conversely, advance the interpretation that "*other law for the time being in force*" refers to other special statutes like the Consumer Protection Act, 2019, the Arbitration and Conciliation Act, 1996, and the Insolvency and Bankruptcy Code, 2016, not the residual jurisdiction of civil courts under CPC. They contend that Section 88 is a non-derogation clause that ensures RERA does not supplant or repeal other statutory remedies, but does not create or preserve civil court jurisdiction. They argue that Section 79 is a specific bar on civil court jurisdiction while Section 88 is a general savings clause, and under the principle *generalia specialibus non derogant* (general provisions do not derogate from special ones), the specific provision prevails. They contend that if Section 88 preserved civil court jurisdiction, Section

79 would become nugatory, which could not have been Parliament's intent.

The Authoritative Pronouncement: *Imperia Structures Ltd.* (supra)

158. The Hon'ble Supreme Court in ***Imperia Structures Ltd. (supra)***, has authoritatively and conclusively settled the interplay between Sections 79 and 88 of the RERA Act. The Hon'ble Supreme Court dealt with the question whether Section 79 RERA bars not only civil courts but also Consumer Forums under the Consumer Protection Act, or whether Section 88 saves the jurisdiction of Consumer Forums.

159. The Hon'ble Supreme Court observed that a careful reading of Section 88 would reveal that it saves the provisions of any other law for the time being in force, and that it further clarifies that the provisions of the 2016 Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force. It is held that Section 88 is a provision which relates to saving of the rights available under other laws for the time being in force and hence, what is saved are not the proceedings before the civil courts but the proceedings before the forums created under other statutes, namely, Consumer Protection Act etc. The said provision cannot be applied for conferring jurisdiction on the civil court which otherwise stands excluded or ousted by operation of Section 79.

160. Therefore, what is saved under Section 88 are "*not the proceedings before the civil courts*" but "*the proceedings before the forums created under other statutes.*" Resultantly, the provisions of Section 79 and Section 88 have to be read conjunctively. It is therefore clear that Section 79 bars the jurisdiction of the civil courts alone in respect of the matters which RERA is empowered to decide and on the other hand, Section 88 of the 2016 Act provides that the other remedies available under any other law for the time being in force shall remain unaffected by the enactment of the 2016 Act except civil remedy.

The Principle: *Generalia Specialibus Non Derogant*

161. The principle of statutory interpretation *generalia specialibus non derogant* (general provisions do not derogate from special ones) is a fundamental canon of construction. When a statute contains both a general provision and a specific provision on the same subject, the specific provision prevails. It is a well-settled principle of statutory interpretation that when there is a conflict between a specific provision and a general provision, the specific provision shall prevail over the general provision.

162. Section 79 is a specific provision dealing specifically with ouster of civil court jurisdiction for RERA matters. It uses precise, unambiguous language: "*No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority is empowered to determine.*" Section 88, on the other hand, is a general savings clause dealing generally with

preservation of other laws. It does not specifically mention civil courts or Section 9 CPC. Under the principle *generalia specialibus non derogant*, Section 79 (specific) prevails over Section 88 (general) insofar as civil court jurisdiction is concerned.

163. Section 88 does not derogate from or nullify Section 79; rather, it operates in a different sphere, preserving remedies under other special statutes, not civil courts. The harmonious reading adopted by the Supreme Court in *Imperia Structures (supra)* gives effect to both provisions without rendering either otiose. Section 79 bars civil courts. Section 88 preserves specialized forums under other statutes. Both provisions operate effectively in their respective domains.

Interpretation of "Other Law for the Time Being in Force"

164. The phrase "*other law for the time being in force*" in Section 88 requires careful interpretation. The Code of Civil Procedure is undoubtedly a "*law for the time being in force.*" However, the question is whether it is an "other law" within the meaning of Section 88. The context and purpose of Section 88 suggest it refers to other special or substantive statutes that confer rights and create remedies, not procedural codes like CPC. The CPC is a procedural statute that governs procedure in civil courts. It does not create substantive rights. Section 9 CPC confers residual jurisdiction on civil courts to try all suits of a civil nature, subject to exceptions.

165. When Section 88 refers to "*provisions of any other law*," it refers to substantive provisions conferring rights and remedies. The Hon'ble Supreme Court in *Imperia Structures (supra)* identified this genus as special statutes like Consumer Protection Act. The Consumer Protection Act creates consumer rights and consumer forum remedies which is a special statutes with its own adjudicatory mechanisms. CPC does not belong to this genus.

166. The principle of *ejusdem generis* (of the same kind or class) applies. When a statute uses general words following specific words, the general words are interpreted to include only things of the same kind or class as the specific words. If Parliament intended to save civil court jurisdiction, it would have either omitted Section 79 entirely or included an express exception in Section 79 itself.

Harmonious Construction of Sections 79 and 88

167. The principle of harmonious construction requires that provisions of a statute be read together so as to give effect to all, avoiding conflict or redundancy. It is the duty of the court to make such construction of a statute which shall suppress the mischief and advance the remedy, and that the various provisions of a statute should be read harmoniously, so that the main object of the statute may be achieved.

168. If Section 88 is read as preserving civil court jurisdiction, Section 79 becomes nugatory and otiose. Parliament's

express intention to bar civil courts, reflected in the categorical language "*no civil court shall have jurisdiction*," would be defeated. The phrase "*no civil court shall have jurisdiction*" would be rendered meaningless. This would violate the principle that every provision must be given effect, expressed in the Latin maxim *ut res magis valeat quam pereat* (it is better for a thing to have effect than to be made void).

169. Conversely, if Sections 79 and 88 are read harmoniously as in *Imperia Structures (supra)*, both provisions are given full effect without conflict. Section 79 bars civil courts from entertaining RERA matters. Section 88 preserves remedies under other special statute (Consumer Forums). Both provisions operate effectively. Allottees have a choice of specialized forums (RERA, Consumer Forums, Arbitration) but cannot approach civil courts for RERA-covered matters. This interpretation advances the legislative purpose of channelizing disputes to specialized forums while preserving concurrent remedies under other special statutes.

Consequence of Appellants' Interpretation

170. If the appellants' interpretation (that Section 88 saves civil court jurisdiction) is accepted, several absurd and unintended consequences would follow. First, Section 79 becomes meaningless. The express bar on civil courts in Section 79 would be rendered nugatory and otiose. Parliament's categorical language, "*No civil court shall have jurisdiction*," would be defeated. Second, there would be multiplicity of forums with concurrent jurisdiction.

Allottees could approach RERA Authority, civil court, Consumer Forum etc.. This would lead to forum shopping, conflicting decisions, multiplicity of proceedings, and abuse of process.

171. Third, the legislative purpose would be defeated. The purpose of creating a specialized, expeditious, accessible forum (RERA) would be defeated if parties could bypass it and approach civil courts. Fourth, there would be violation of the principle against surplusage. The principle *verba cum effectu sunt accipienda* (words are to be taken with effect) mandates that no provision should be rendered redundant. If Section 88 preserves civil courts, Section 79 becomes redundant. The court must avoid a construction which will result in rendering any part of the statute otiose or redundant.

Rebuttal of Appellants' Counter-Arguments

172. The appellants argued that Section 88 would be redundant if limited to other statutes, since those statutes would continue to apply even without Section 88. This argument is incorrect. Section 88 is not redundant; it is clarificatory. Without Section 88, there could be an argument that RERA, being a later and special statute, impliedly repeals or overrides earlier statutes under the doctrine of *lex posterior derogat priori* (later law prevails over earlier law) or *lex specialis derogat legi generali* (special law prevails over general law). Section 88 clarifies legislative intent. It clarifies that RERA is "*in addition to*" (supplementary to), not "*in derogation of*" (replacing or overriding) other statutes. This is valuable clarification, not redundancy.

173. The appellants argued that denial of civil court access violates the constitutional right of access to justice under Article 14 read with Article 21. This argument is incorrect. Access to justice does not mean access to civil courts specifically. The right is to effective remedy, not to a particular forum. As long as an adequate alternate forum exists, there is no denial of justice. RERA provides adequate remedy, as determined in Point of Determination No. 2.

174. The appellants argued that CPC is literally a "*law for the time being in force*" and Section 88's language is unqualified. This argument adopts a hyper-literal approach that ignores context and purpose. It is well settled that in interpreting a statute, the court must have regard to the purpose and object of the Act. Literal interpretation would lead to absurdity. If every "*law*" includes CPC, it would also include Cr.PC, Evidence Act, Limitation Act, etc., creating unworkable confusion.

Conclusion on Point of Determination No. 4

175. The Court, after consideration of the statutory provisions, the pronouncement of the Hon'ble Supreme Court in *Imperia Structures Ltd. (supra)*, the principle of statutory interpretation *generalia specialibus non derogant*, the meaning of "*other law for the time being in force*," the principle of harmonious construction, legislative intent, and the consequences of competing interpretations, is of the view that Section 88 of the RERA Act does not preserve civil court jurisdiction under Section 9 CPC.

176. Section 88 of the RERA Act does not save the present civil suit. It must be read harmoniously with Section 79 so as to exclude the jurisdiction of the civil court.

177. Point of Determination No. 4 is answered in the negative insofar as saving of civil court jurisdiction is concerned, and in the affirmative insofar as harmonious reading with Section 79 is concerned. Section 88 does not preserve civil court jurisdiction and must be read harmoniously with Section 79. Point of Determination No. 4 is determined in favor of the respondents and against the appellants.

**CONSIDERATION OF THE JUDGMENTS RELIED UPON
BY THE APPELLANTS**

178. The Ld. Counsel for the appellants has relied upon multiple authorities in support of the submissions on (i) jurisdiction / ouster of civil court jurisdiction, (ii) the interplay of Sections 88 and 89 of the RERA Act, and (iii) the alleged right of an allottee to an undivided share in common areas. Since this Court has already adjudicated all four Points of Determination and has recorded findings (a) that the present dispute concerns matters which the RERA Authority is empowered to determine, (b) that the RERA Authority has adequate remedial powers to grant the functional equivalents of prohibitory and mandatory injunctions, (c) that Section 79 expressly bars the civil court's jurisdiction in the present controversy, and (d) that Section 88 does not preserve civil court jurisdiction and must be read harmoniously with Section 79, this

Court now proceeds to deal with the judgments relied upon by the appellants at one place.

179. At the outset, it requires to be emphasised that precedents operate on the ratio decidendi and not on stray observations. Further, the applicability of an authority depends upon the statutory context, the nature of the forum created, the wording of the exclusion clause (if any), the nature of the controversy, and the nature of reliefs claimed. Authorities rendered in a different statutory framework, or in the absence of an express bar, cannot be mechanically imported to dilute an explicit jurisdictional exclusion such as Section 79 of the RERA Act. With these principles in view, the judgments relied upon by the appellants are considered below.

Judgments relied upon “on the point of jurisdiction”

Dhulabhai v. State of Madhya Pradesh (1968) 3 SCR 662

180. The appellants rely on paragraph 32 of ***Dhulabhai (supra)*** to contend that the civil court’s jurisdiction is not readily excluded and that exclusion is permissible only where the statute provides adequate remedy and the tribunal acts in conformity with principles of judicial procedure. There can be no quarrel with the broad propositions laid down by the Hon’ble Supreme Court. However, the reliance is misplaced in the present facts.

181. ***Dhulabhai (supra)*** itself lays down that *where the statute gives finality to the orders of the special tribunals, the civil court’s jurisdiction must be held to be excluded if there is adequate*

remedy to do what the civil court would normally do in a suit. That principle, rather than assisting the appellants, operates against them in the present case because: (i) the RERA Act establishes a complete adjudicatory framework comprising the Authority/Adjudicating Officer/Appellate Tribunal; (ii) Section 79 contains an express bar in categorical language; and (iii) as already held under Point of Determination No. 2, the Authority is empowered to issue interim and final binding directions to do and to refrain from doing acts, which are functionally equivalent to the reliefs sought in the suit.

182. The exceptions noted in *Dhulabhai (supra)*, such as where the statutory tribunal acts without jurisdiction, or where provisions of the Act have not been complied with, or where fundamental principles of judicial procedure are violated—do not arise here. The appellants’ case is not that the RERA Authority has acted without jurisdiction or in breach of procedure; rather, the appellants have chosen not to invoke the statutory forum. Such choice cannot confer jurisdiction upon the civil court in the teeth of an express bar. Therefore, *Dhulabhai (supra)* does not advance the appellants’ submission; rather, it supports the conclusion that once the matter is within the empowerment of the special forum and adequate remedies exist, civil court jurisdiction stands excluded.

Krishan Lal (supra)

183. The judgment in *Krishan Lal (supra)* is relied upon to reiterate the general presumption that civil court jurisdiction is not excluded unless expressly or impliedly barred. This general

proposition is already well-settled and is not disputed. However, in the present case, the exclusion is not sought to be inferred on implication; it flows from an express statutory bar contained in Section 79 of the RERA Act, coupled with the specific scheme of empowerment under Section 31 and the remedial provisions considered under Point of Determination No. 2.

184. The issue in the present appeal is therefore not one of presumption but one of statutory application: whether the dispute is in respect of a matter which the Authority is empowered to determine. This Court has already answered that question in the affirmative. Once the statutory conditions for application of Section 79 are satisfied, reliance on general presumptions about civil court jurisdiction cannot override the legislative command. Hence, Krishan Lal (supra) is of no assistance to the appellants on the decisive question.

Sau Rajani (supra)

185. The appellants rely heavily on Sau Rajani (supra) to contend that civil courts continue to have jurisdiction where the dispute concerns civil rights such as easements/amenities and is not within the statutory authority's domain. The ratio of Sau Rajani (supra) is unexceptionable: where a special statute does not empower the authority to determine the dispute in question, civil court jurisdiction may remain available. However, the appellants' reliance suffers from an error of application.

186. The dispute before this Court is not an inter se dispute between private occupants regarding easementary enjoyment or private encroachment unconnected to the statutory obligations of the developer/promoter. In the present suit, the principal allegations are directed against the promoter (DDA) and are founded upon alleged breaches of statutory duties under the RERA Act, including disclosure obligations, adherence to layout/sanctioned plans, alteration of common areas, consent requirement, and continuing obligations till conveyance. These are not collateral civil rights divorced from the statute; they arise from and are governed by RERA itself.

187. In Sau Rajani (supra), the determinative consideration was that the statutory authority concerned did not have power to adjudicate the specific grievance against another occupant in respect of easementary enjoyment. Here, in contrast, the very gravamen of the plaint is that the promoter has violated obligations cast upon it by the RERA Act. The RERA Authority is expressly empowered under Section 31 to entertain complaints for violation/contravention of the Act against a promoter, and is mandated under Section 34(f) to ensure compliance of obligations cast upon promoters. Therefore, the factual and statutory foundations are materially distinct.

188. For these reasons, Sau Rajani (supra) does not assist the appellants in escaping the jurisdictional bar under Section 79, once it is found (as held under Point of Determination No. 1) that

the present controversy is one which the Authority is empowered to determine.

Judgments relied upon “on Sections 88 and 89 of the RERA Act”

189. The appellants have relied upon a group of authorities to argue that because Section 88 states that RERA is “*in addition to, and not in derogation of*” other laws, the civil court jurisdiction under Section 9 CPC remains preserved. This submission, however, proceeds on a misconstruction of Section 88. As already held while adjudicating Point of Determination No. 4, Section 88 cannot be read so as to nullify or render otiose the express bar under Section 79. Section 88 and Section 79 operate in different fields and must be harmonised: Section 88 preserves remedies under other laws where those remedies are otherwise legally maintainable, while Section 79 specifically bars civil suits in respect of matters which RERA authorities are empowered to determine.

190. Each of the authorities cited by the appellants on Section 88/89 is now dealt with.

Frick India Ltd. (supra)

191. The appellants invoke **Frick India (supra)** for the general principle that when a statute states that it is “*in addition to and not in derogation of*” other laws, the remedies under other laws are not taken away. This proposition, as a broad interpretative rule, may be accepted. However, that proposition cannot be applied in

abstraction, ignoring the presence of an express ouster provision in the same statute.

192. A non-derogation clause is not a *carte blanche* to revive forums and remedies expressly barred elsewhere in the statute. It is a settled rule of interpretation that a *specific provision prevails over a general provision*. Section 79 is a specific provision dealing with the precise subject of civil court jurisdiction and injunctions. Section 88 is a general saving clause. Therefore, **Frick India (supra)** does not support the appellants' contention that Section 88 overrides Section 79; at best it supports the limited proposition that RERA does not impliedly repeal other statutory remedies, which is consistent with the harmonious interpretation adopted by this Court.

Rani & Anr. v. Dinesh (supra)

193. The appellants rely on **Rani (supra)** to urge the meaning of “*in addition to and not in derogation of*”. This authority, being rendered in a different statutory setting, can at best offer interpretative guidance on the phrase. It does not deal with the RERA Act, nor with an express civil court bar comparable to Section 79 RERA. Most importantly, it does not lay down that a general non-derogation clause can nullify an explicit jurisdictional bar within the same enactment.

194. The appellants' reliance therefore does not carry their argument any further. In the present case, Section 79 expressly withdraws jurisdiction from civil courts for a defined class of

matters. Any interpretation of Section 88 that renders Section 79 redundant must be rejected on settled principles of statutory construction. **Rani (supra)** does not compel a contrary conclusion.

Gujarat Urja Vikas Nigam Ltd. (supra)

195. The appellants cite **Gujarat Urja (supra)** ostensibly to argue for preservation of remedies under parallel enactments. However, **Gujarat Urja (supra)** is in fact a strong authority for the principle that when a special statute creates a specialised forum and vests it with jurisdiction over specified disputes, parties cannot bypass that forum by invoking a general remedy under another law in a manner that defeats the special scheme.

196. The ratio of **Gujarat Urja (supra)** therefore does not assist the appellants in invoking Section 9 CPC in the face of Section 79. If anything, the principle underlying **Gujarat Urja (supra)** supports the respondents' submission that the RERA Act is a special legislation with a self-contained adjudicatory mechanism, and that the legislative intent is to channel disputes of the present kind to the specialised forum.

Kunal Singh v. Union of India (supra)

197. **Kunal Singh (supra)** is also relied upon for general principles of statutory interpretation and/or preservation of remedies. However, the present controversy does not turn upon whether RERA takes away substantive rights; it turns upon forum competence and statutory ouster. Even if Section 88 preserves

certain remedies “in addition to” RERA, the statute simultaneously carves out, through Section 79, a specific exclusion of civil court jurisdiction for matters empowered to be determined by RERA authorities.

198. A precedent that discusses “*in addition to, not in derogation of*” in a different statutory milieu cannot override an express forum bar in the RERA Act. Hence, Kunal Singh (supra) is not of assistance to the appellants on the precise question framed in Point of Determination No. 4.

Forum for People’s Collective Efforts (supra)

199. The appellants rely on Forum for People’s (supra) to argue the constitutional and federal dimensions of RERA and to draw meaning from Sections 88 and 89. This authority undoubtedly recognises the comprehensive nature of the RERA regime and the central legislative intent to create a uniform regulatory architecture.

200. However, the reliance does not advance the appellants’ conclusion that civil court jurisdiction is preserved. On the contrary, the recognition of RERA as a comprehensive code strengthens the interpretative approach that disputes concerning promoter obligations and allottee rights in a registered project are intended to be adjudicated by the RERA forums, and that the statute must be allowed to operate with full efficacy. The appellants’ attempt to use Sections 88/89 to preserve a civil suit, despite Section 79, would dilute the uniform adjudicatory design of RERA.

201. Therefore, while the authority may be relevant to appreciate the width and object of RERA, it does not support the proposition that civil suits remain maintainable in respect of matters empowered to be determined under the Act.

Nidhi Kaushik v. Union of India (supra)

202. Nidhi Kaushik (supra) is cited as an interpretative authority on saving clauses/overriding clauses. The present case, however, is governed by the explicit text of Section 79, read with Sections 31, 34, 36 and 37. Unless the authority directly deals with a situation where a general non-derogation clause is used to defeat a specific jurisdictional bar, it cannot assist the appellants.

203. In any event, the settled interpretative rule remains that specific provisions prevail over general ones, and that a harmonious construction must be adopted to give effect to all provisions. On that approach, Section 88 cannot be read as overriding Section 79. Hence, Nidhi Kaushik (supra) does not support the appellants' submission.

The Greater Bombay Co-Operative Bank (supra)

204. The appellants rely upon the above decision apparently to contend that jurisdictional questions must be resolved in favour of civil courts unless clearly barred, and/or that saving clauses preserve remedies. However, this authority is neither rendered in the context of the RERA Act nor does it deal with a statutory framework containing an express bar akin to Section 79

coupled with a specialised forum empowered to determine the precise class of disputes.

205. The persuasive value of this decision, even if accepted at the highest, cannot override the express legislative command contained in Section 79 of the RERA Act. Therefore, this authority does not assist the appellants.

Praveen Gambhir v. Union of India (supra)

206. The appellants' reliance on **Praveen Gambhir (supra)** is again on general principles of harmonisation/saving. The same limitations apply. General interpretative statements cannot be used to negate Section 79. The determinative inquiry is whether the present dispute is in respect of a matter which the RERA Authority is empowered to determine. This Court has already held that it is. Therefore, the cited authority does not support the appellants' case.

Judgments relied upon “on divided share in common areas”

207. The appellants have relied upon the following decisions: (i) **Sugar Apartments Flat Owners Society (Regd.) (supra)**, (ii) **DLF Limited (supra)**, and (iii) **Hill Properties (supra)**, to contend that allottees have an undivided share and enforceable rights in common areas and amenities, and that the promoter cannot alter or appropriate the same.

208. The broad propositions regarding the nature of common areas and the rights of apartment owners/allottees are not being adjudicated on merits in the present appeal. The present appeal

is being decided on the jurisdictional question: whether the civil court can entertain the suit and grant injunctions in respect of the controversy pleaded, in the face of Section 79 of the RERA Act. The question is not whether the appellants have rights or grievances; the question is where such grievances are to be agitated.

209. Even assuming *arguendo* that the above judgments support the appellants on merits regarding common areas and undivided share, such support cannot confer civil court jurisdiction where the statute expressly bars it. On the appellants' own case, the grievance is that the promoter has acted contrary to layout plans, prospectus representations, and statutory obligations concerning common areas, including consent requirements. Such allegations fall squarely within the statutory scheme of RERA, and the remedy lies before the Authority under Section 31. Therefore, these authorities, being directed primarily to the merits of rights in common areas, do not advance the appellants' attempt to sustain a civil suit in the face of Section 79.

210. Additionally, the statutory framework under RERA expressly contemplates continuing promoter obligations till conveyance of common areas (Section 11(4)(a)) and mandates transfer of title and proportionate rights (Section 17). Consequently, disputes regarding common areas during the pre-conveyance phase are expressly regulated by RERA, and the forum competence question must be answered with reference to the RERA scheme, not solely by reference to general property law propositions. Hence,

these authorities do not assist the appellants in avoiding the jurisdictional bar.

Conclusion on the Appellant's Authorities.

211. For all the reasons discussed in the preceding paragraphs, the judgments relied upon by the appellants are held to be inapplicable and/or distinguishable and do not support the case set up by the appellants.

POINT OF DETERMINATION NO. 5 - WHETHER THE IMPUGNED JUDGMENT AND ORDER DATED 29.05.2025 SUFFERS FROM ANY LEGAL INFIRMITY, PERVERSITY, OR MISAPPLICATION OF STATUTORY PROVISIONS WARRANTING INTERFERENCE BY THIS COURT IN APPEAL?

212. This Point of Determination pertains to the permissible scope of appellate interference with an order by which the Ld. Trial Court has held the suit to be barred by jurisdiction and has declined to entertain the civil action in view of the scheme of the RERA Act, 2016. At this stage, this Court is not sitting as a court of first instance to decide the controversy on merits relating to the fencing/gates; rather, it is required to examine whether the approach adopted by the Ld. Trial Court suffers from such legal infirmity, perversity, or misapplication of statutory provisions as would justify appellate interference.

213. The expressions “*legal infirmity*”, “*perversity*”, and “*misapplication of statutory provisions*” are not empty labels. An order warrants interference where the subordinate court has (i) ignored material statutory provisions, (ii) applied wrong legal tests, (iii) recorded findings which no reasonable judicial mind could have recorded on the material available, (iv) failed to consider the pleadings and the real cause of action, (v) misdirected itself in law, or (vi) adopted an interpretation which renders the statute unworkable or defeats legislative intent. Conversely, where the trial court has applied the correct legal principles, construed the pleadings in the proper perspective, and arrived at a plausible conclusion consistent with the statutory scheme, the appellate court would not substitute its own view merely because another interpretation is possible.

214. In the present case, the impugned judgment/order is essentially founded upon the determination that the dispute raised by the plaintiffs/allottees arises out of alleged violations by the promoter (DDA) in a RERA-registered project, and that the RERA Act creates a complete code with a specialised forum and an express bar of civil court jurisdiction under Section 79. The appellants’ principal grievance is that the Ld. Trial Court has erred in declining jurisdiction, and that the civil suit ought to have been entertained, especially for injunctive reliefs.

215. This Court has already adjudicated Points of Determination Nos. 1 to 4 and has returned detailed findings that:

- a. the dispute pleaded concerns matters which the RERA Authority is empowered to determine (particularly under Sections 11, 12, 14, 17, 19 and 31);
- b. the RERA Authority has adequate remedial powers (including interim and final binding directions) to grant reliefs of the kind sought in the suit;
- c. Section 79 expressly ousts civil court jurisdiction and also contains an injunction bar; and
- d. Section 88 does not revive civil court jurisdiction and must be read harmoniously with Section 79.

216. Once these findings stand recorded, the lens through which Point of Determination No. 5 must be examined becomes clear: whether the Ld. Trial Court's conclusion is inconsistent with the statutory scheme and the correct legal tests. Upon careful consideration, this Court is of the view that it is not.

Whether the Ld. Trial Court correctly appreciated the pleadings and the real cause of action

217. The starting point of any jurisdictional inquiry is the plaint and the reliefs sought. The Ld. Trial Court was required to ascertain whether the suit is "*in respect of any matter which the Authority... is empowered... to determine*" within the meaning of Section 79. This requires identifying the true nature of the grievance, not its drafting label.

218. In the present case, the gravamen of the plaint is not an abstract dispute about property or a private-law dispute between

neighbours; it is a complaint that the promoter of a RERA-registered project has allegedly:

- a. failed to disclose material aspects in the prospectus/layout plan;
- b. deviated from the sanctioned/layout plan; and
- c. altered common areas without requisite allottee consent.

219. These complaints are not merely incidental references to RERA; they are the very foundation of the cause of action, and the reliefs are sought by invoking promoter obligations and allottee rights that are statutorily structured under the RERA framework.

220. Therefore, the Ld. Trial Court's understanding that the dispute is rooted in alleged promoter violations in a registered project cannot be termed as perverse or contrary to pleadings. On the contrary, it is a correct appreciation of the plaint, because the suit is built on the proposition that DDA's action is impermissible precisely because it is contrary to the disclosure/plan/consent regime which the RERA Act regulates.

Whether the Ld. Trial Court misapplied Section 79 of the RERA Act

221. The appellants contend that the Ld. Trial Court has misapplied Section 79. This contention is not tenable. Section 79 contains a categorical command that no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority is empowered to determine. The test is

not whether the plaintiffs have already approached RERA, or whether RERA has already adjudicated; the test is whether the subject-matter is of the class of disputes which the Authority is empowered to determine.

222. This Court has already held under Point of Determination No. 1 that the present controversy squarely engages the statutory obligations and rights under the RERA Act and is within the scope of complaints contemplated under Section 31. Once that is so, the Ld. Trial Court's application of Section 79 cannot be characterised as misapplication; it is a faithful application of the statutory mandate.

223. Further, the second limb of Section 79 places an additional embargo that no injunction shall be granted by any court in respect of any action taken or to be taken in pursuance of any power conferred by or under the Act. The principal reliefs claimed in the suit are injunctive in nature (prohibitory and mandatory). Thus, even on this limb, the civil court would be disabled from granting the very reliefs sought. The Ld. Trial Court, therefore, cannot be faulted for declining to entertain the suit, as entertaining it would lead to an inherently incongruous situation where the court assumes jurisdiction but is statutorily barred from granting the substantive reliefs.

224. It is also pertinent that the statutory bar under Section 79 is not a matter of judicial discretion; it is a legislative command. The civil court's jurisdiction under Section 9 CPC itself is

“*excepted*” where cognizance is expressly barred. Therefore, the Ld. Trial Court’s approach does not suffer from any legal infirmity.

Whether the Ld. Trial Court failed to apply the Dhulabhai test of “adequate remedy”?

225. The appellants argue that even if the dispute is relatable to RERA, civil court jurisdiction should not be ousted unless RERA provides an adequate remedy. This Court has already undertaken an exhaustive analysis under Point of Determination No. 2 and has concluded that RERA remedies are adequate and efficacious, because the Authority can grant interim restraint orders, issue binding directions to do/refrain from doing acts, and enforce compliance through penalties and recovery mechanisms.

226. In such circumstances, the conclusion of the Ld. Trial Court that the dispute should be channelised to the statutory forum cannot be described as legally infirm. The adequacy inquiry does not require that the statute uses the exact word “*injunction*”; it requires functional equivalence and enforceability. The statutory powers under Sections 34(f), 36 and 37 of RERA are wide enough to grant the substance of the relief sought. This court does not find that the Ld. Trial Court has adopted any wrong legal test or ignored the operative provisions of the Act.

Whether the Ld. Trial Court committed perversity in ignoring material facts such as issuance of Occupancy Certificate/completion stage/formation of RWA

227. The appellants have stressed that occupancy certificate was issued and therefore the dispute has a “*post-occupancy*” character involving civil rights. This Court has already held that occupancy certificate is not the terminus of promoter obligations under RERA, because the Act contemplates continuing obligations till conveyance of common areas and transfer of title. The admitted position is that conveyance deeds have not been executed, RWA has not been formed, and common areas remain under the promoter’s control. This places the dispute in the pre-conveyance phase which remains within the regulatory field of RERA.

228. Therefore, even if the Ld. Trial Court did not elaborate on every factual facet in the same detail as this Court has done in the appellate judgment, the ultimate conclusion that the controversy is governed by the RERA scheme and is not a free-standing civil dispute is not perverse. A finding is perverse when it is such that no reasonable court could reach it; the impugned order does not satisfy that standard. It reflects a plausible and legally sustainable view consistent with the scheme of the statute.

Whether the Ld. Trial Court misdirected itself by treating Section 88 as irrelevant?

229. The appellants have urged that Section 88 saves other laws and therefore civil court jurisdiction survives. This Court has already rejected this interpretation under Point of Determination No. 4, holding that Section 88 is a general non-derogation clause and

cannot override the specific bar under Section 79, and that both provisions must be read harmoniously.

230. Once such harmonious construction is adopted, the Ld. Trial Court's approach in not allowing Section 88 to defeat Section 79 cannot be regarded as misapplication. To accept the appellants' interpretation would render Section 79 otiose, which is impermissible. Thus, the impugned order is not vitiated on this count.

Conclusion on Point of Determination No. 5

231. In view of the above discussion, this Court holds that the impugned judgment and order dated 29.05.2025 does not suffer from any legal infirmity, perversity, or misapplication of statutory provisions warranting interference in appeal. The Ld. Trial Court has adopted a legally sustainable approach consistent with the statutory scheme of the RERA Act, particularly Section 79, and has correctly declined to entertain the civil suit in respect of matters which the RERA Authority is empowered to determine.

232. Consequently, Point of Determination No. 5 is answered in the negative, and it is held that no ground is made out for appellate interference with the impugned judgment/order dated 29.05.2025.

CONCLUSION

233. In the light of the findings recorded under Points of Determination Nos. 1 to 5, this Court is of the considered view that

the present appeal is devoid of any merit. The controversy raised by the Appellants, though involving significant issues of physical segregation and access to amenities, falls squarely within the regulatory and adjudicatory "*Occupied Field*" of the Real Estate (Regulation and Development) Act, 2016.

234. As determined hereinabove, the RERA Authority is not only empowered to adjudicate these specific grievances under Sections 11, 12, 14, 17, and 19, but it also possesses the requisite remedial competence to ensure compliance and restoration of the project's sanctioned character through binding directions under Sections 36 and 37. Consequently, the express bar under Section 79 of the Act operates to oust the jurisdiction of the Civil Court. The Ld. Trial Court correctly applied the "*Adequacy of Remedy*" test from *Dhulabhai (supra)* and the "*Forum Choice*" principles from *Imperia Structures Ltd. (supra)*, warranting no interference by this Court.

FINAL ORDER

235. The present appeal is hereby dismissed. The impugned judgment and order dated 29.05.2025 passed by the Ld. Trial Court in case titled "*Anisuddin & Ors. v. Delhi Development Authority & Ors, CS SCJ 624/2024*" is hereby affirmed.

236. All pending miscellaneous applications, if any, stand disposed of.

237. In the facts and circumstances of the case, the parties are directed to bear their own costs.

238. A copy of this judgment be sent to the Ld. Trial Court along with the Trial Court Record (TCR).

239. The appeal file be consigned to the Record Room after due compliance.

**JUDGMENT PRONOUNCED IN OPEN COURT
ON 28.01.2026 AND DIGITALLY SIGNED AND
UPLOADED ON 03.02.2026¹**

**(SUMIT DALAL)
DISTRICT JUDGE – 04
SOUTH WEST DISTRICT
DWARKA COURTS : NEW DELHI**

¹The delay in digitally signing and uploading the judgment occurred for the following bona fide reasons:

- a. The judgment is extensive and detailed in nature, necessitating multiple rounds of careful proofreading to ensure accuracy, coherence, and legal precision.
- b. During the relevant period, the board of this Court was exceptionally heavy, with 45 matters on 28.01.2026, 40 matters on 29.01.2026, 49 matters on 30.01.2026, 50 matters on 31.01.2026, and 48 matters on 02.02.2026. Further, on 31.01.2026, the undersigned was on half-day leave during the post-lunch session and 01.02.2026 was a holiday being Sunday.
- c. Owing to the cumulative effect of the unusually heavy board and limited available judicial time, the process of proofreading could not be concluded earlier and was completed only on 03.02.2026, on which date the judgment was digitally signed and uploaded.

Accordingly, the delay was neither deliberate nor avoidable and occurred solely due to administrative and workload-related constraints.