KERALA REAL ESTATE REGULATORY AUTHORITY
THIRUVANANTHAPURAM

Complaints No. 97/2024, 98/2024, 99/2024, 100/2024, 101/2024, 103/2024, 104/2024, 105/2024, 106/2024, 209/2024, 210/2024 & 213/2024

Present: Smt. Preetha P. Menon, Member
Dr. B. Sandhya, Member

Dated 28th February 2025.

Complainants

1. Lt. Col Smitha Rani E N : Complaint No.97/2024
   Aged 48 years, W/o Kishor PR,
   B2503, B Tower Chander Kunj Army Towers,
   Silver Sand Island, Vytilla,
   Ernakulam District, Kerala - 682019

2. Kishor P. R,
   Aged 51 years, S/o P E Rajappan,
   B2503, B Tower Chander Kunj Army Towers,
   Silver Sand Island, Vytilla,
   Ernakulam District, Kerala - 682019

3. Sajie Shankar, :Complaint No. 98/2024
   Aged 49 years, S/o Late K P Sankaran Nair,
   Flat No. C0303, C Tower Chander Kunj Army Towers,
   Silver Sand Island, Vytilla,
   Ernakulam District, Kerala – 682019.

4. Saji Thomas, : Complaint No. 99/2024
   Aged 58 years, S/o P V Thomas,
   17A2 Kent Glass House,
   Vyttila, Kochi – 682019

5. Lt. Cdr, V V Krishnan, : Complaint No. 100/2024
   Aged 43 years, S/o V R Vasudevan,
   Flat No. B2204, B Tower Chander Kunj Army Towers,
   Silver Sand Island, Vytilla,
   Ernukulam District, Kerala – 682019

6. Divya Nambissan,
   Aged 38 years, W/o V V Krishnan,
   Flat No. B2204, B Tower Chander Kunj Army Towers,
   Silver Sand Island, Vytilla,
   Ernukulam District, Kerala – 682019

7. Wg. Cdr. George Antony, : Complaint No. 101/2024
   Aged 62 years, S/o Antony Thottappilly,
   Flat No. B1301, B Tower Chander Kunj Army Towers,
   Silver Sand Island, Vytilla,
   Ernakulam District, Kerala – 682019

8. Mini George,
   Aged 58 years, W/o George Antony,
   Flat No. B1301, B Tower Chander Kunj Army Towers,
   Silver Sand Island, Vytilla,
   Ernakulam District, Kerala – 682019

9. Chander Kunj Welfare Maintenance :Complaint No. 103/2024
   Society, With Reg.No. EKM/TC/86/2024,
   Represented by its President, Sajie Sankar,
   Aged 49 years, S/o Late K P Shankaran Nair,
   Flat No. C0303, C Tower Chander Kunj Army Towers,
   Chander Kunj Silver Sand Island, Vytilla,
   Ernakulam District, Kerala – 682019

10. Cdr. K S Mathews, : Complaint No. 104/2024
Aged 74 years, S/o Late K K Mathew,
Flat No. B-1904, B Tower,
Chander Kunj Army Towers,
Silver Sand Island, Vytilla,
Ernakulam District, Kerala – 682019

11. Lalitha Mathews,
Aged 71 years, W/o Cdr K S Mathews,
Flat No. B-1904, B Tower,
Chander Kunj Army Towers,
Silver Sand Island, Vytilla,
Ernakulam District, Kerala – 682019

12. Capt. Jones Alex, : Complaint No. 105/2024
Aged 59 years, S/o Alex Naduvilamuriyl,
Flat No. C2003, C Tower,
Chander Kunj Army Towers,
Silver Sand Island, Vytilla,
Ernakulam District, Kerala – 682019

13. Annie Jones,
Aged 58 years, W/o Jones Alex,
Flat No. C2003, C Tower,
Chander Kunj Army Towers,
Silver Sand Island, Vytilla,
Ernakulam District, Kerala – 682019

14. Cdr. K S Mathews, :Complaint No. 106/2024
Aged 74 years, S/o Late K K Mathew,
Flat No. C-1904, C Tower,
Chander Kunj Army Towers,
Silver Sand Island, Vytilla,
Ernakulam District, Kerala – 682019.

15. Lalitha Mathews,
Aged 71 years, W/o Cdr K S Mathews,
Flat No. C-1904, C Tower,
Chander Kunj Army Towers,
Silver Sand Island, Vytilla,
Ernakulam District, Kerala – 682019.

[For Complainants in Complaints No. 97 to 101/2024 & 103 to 106/2024- Adv. K Shaj, Beena N. Kartha, Arun Chand, Bharath Vijay, Minu Vittorria Paulson, Gopika Gopal, Archana P.P & Akhila Hussain]

16. Brigadier Omana Bharathan(Rtd): Complaint No.209/2024
Floor No. 6, B Block, Flat No. 0601
Chander Kunj Army Towers,
Silver Sand Island, Vytilla,
Ernakulam District, Kerala – 682019.

17. Jayakumar paroor, : Complaint No.210/2024
S/o NVP Panicker, Retd Govt Employee,
Floor No. 23, C Block, Flat No. 2301, D No. 45/454BY,
Chander Kunj Army Towers,
Silver Sand Island, Vytilla,
Ernakulam District, Kerala – 682019.

18. Mavelil Raman Hema,
W/o Jayakumar Paroor,
Floor No. 23, C Block, Flat No. 2301, D No. 45/454BY,
Chander Kunj Army Towers, Silver Sand Island, Vytilla,
Ernakulam District, Kerala – 682019.

19. Lt.Col. Susan Leena Joseph(Retd) :Complaint No.213/2024
Vayalil House, Edakkad Desom,
Puthiyangadi, Edakkad P.O.
Kozhikkode, Pin- 673005.
[For Complainants in Complaints No 209, 210 & 213/2024 Adv. N. Ratheesh, Suma Ratheesh & Shanker Ratheesh]

Respondents in Complaints No. 97 to 101/2024 & 103 to 106/2024

1. The Army Welfare Housing Organisation (AWHO),
   represented by its Managing Director,
   South Hutments, Kashmir House,
   Rajaji Marg, New Delhi - 110011

2. The Project Director,
   Army Welfare Housing Organisation (AWHO),
   Prasanna Vihar, Marine Drive,
   Opp. High Court, Kochi – 682031

3. The Tripunithura Municipality,
   Municipal Office, Tripunithura P.O, Layam Road,
   Tripunithura, Ernakulam District – 682301

4. The Secretary, Tripunithura Municipality,
   Municipal Office, Tripunithura P.O, Layam Road,
   Tripunithura, Ernakulam District – 682301

5. The Vigilance Squad,
   Represented by the Chief Town Planner (Vigilance),
   Local Self Government Department – Vigilance Wing,
   Vigilance Cell, 5th floor, Swaraj Bhavan,
   Nanthancode, Thiruvananthapuram – 695003

6. The Kerala Coastal Zone Management Authority (KCZMA),
   Represented by its Member Secretary,
   Office of the Kerala Coastal Zone Management Authority,
   4th Floor, KSRTC Bus Terminal,
   Thampanoor P.O, Thiruvananthapuram – 695001

7. M/s Silpa Projects and Infrastructure India Private Limited,
   Represented by its Managing Director,
   65/847-848, 3rd Floor, North Avenue,
   Paramara Road, Kochi – 682018

8. B R Ajith, Architect,
   Ajit Associates Architectural Consultants Pvt Ltd,
   Silver Sand Island, Vyttilla P.O, Kochi – 682019,
   And also having address at 3rd Floor,
   Puthuran Plaza, KPCC Junction,
   M G Road, Kochi – 682011

9. M/s Ajit Associates,
   Architectural Consultants Pvt Ltd,
   Represented by B R Ajith,
   Architect and Managing Director,
   Silver Sand Island, Vyttilla P.O,
   Kochi – 682019 and also having
   Address at 3rd Floor, Puthuran Plaza,
   KPCC Junction, M G Road,
   Kochi – 682011

   [For R1 & R2 Adv. George Cherian Karippaparambil and Adv. Aglin Christopher]

Respondents in Complaints No 209/2024, 210/2024 & 213/2024

1. The Army Welfare Housing Organisation (AWHO),
   represented by its Managing Director,
   South Hutments, Kashmir House,
   Rajaji Marg, New Delhi - 110011

2. The Project Director,
   Army Welfare Housing Organisation (AWHO),
   Prasanna Vihar, Marine Drive,
   Opp. High Court, Kochi – 682031

3. The Board of Governors
   Represented by the Chief of the Army staff and President,
   IHQ of MOD(ARMY),
   Sena Bhavan, New Delhi Pin- 110011.

ORDER

1. As the above Complaints are related to the same project developed by the same Promoter, the cause of action and the reliefs sought in all the complaints are one and the same, the said Complaints are clubbed and taken up together for passing common order, as provided under Regulation 6 (6) of Kerala Real Estate Regulatory Authority (General) Regulations, 2020. The Complainants are allottees/owners except the Complainant in Complaint No. 103/2024, which is a Society of the apartment owners of the project in question.

2. The Complainants in Complaints No. 97/2024, 98/2024, 99/2024, 100/2024, 101/2024, 103/2024, 104/2024, 105/2024 & 106/2024 are seeking reliefs for direction to the Army Welfare Housing Organisation to comply with the provisions of Section 3 of the Act, 2016, to pay interest on the delayed possession at the prevailing SBI's bench mark PLR rate of 15% plus 2 % as per the schedule to the Complaint and further interest on every month till apartment is handed back to the Complainants, to change classification of land from paddy to garden land, to inform the allottees of the proceedings pertains to land acquisition of the property by Kochi Metro Rail Limited and ensure compensation, direct the Kerala Coastal Zone Management Authority to study investigate and furnish information as to the manner of violation of CRZ norms in making construction, direct the Trippunithura Municipality to

ascertain violation of provisions of the building rule and regulations, direct a competent authority to study the Building Rule violation in construction, deterioration and damage to the buildings, to find whether building is fit for habitation, whether retrofitting is possible, whether demolition cum reconstruction is required, and if retrofitting or demolition cum reconstruction is allowed Army Welfare Housing Organisation be directed to obtain CRZ NOCs, all permits and sanctions from Municipality, permits required under the Air (Prevention and Control of Pollution) Acts and Water (Prevention and Control of Pollution) Act, award cost etc. The reliefs claimed in Complaint No. 103/2024 includes direction to the Army Welfare Housing Organisation to register an Association of allottees and to hand over all records, corpus, the common area and amenities to such an Association of allottees, handing over of all documents in respect of any land acquisition proceedings to the Association of Allottees so formed and to give direction not to act as representative of Allottees in respect of land acquisition proceedings, to remit land acquisition compensation to the Association so as to apportioned amongst the allottees, to restrain the Army Welfare Housing Organisation from making or engaging any construction or reconstruction or repair works in the building without registering the project as provisions of RERA Act and without obtaining approvals, permits or sanction from competent authorities concerned. The Complainants in

Complaints No. 209/2024, 210/2024 & 213/2024 are seeking directions to the Respondents 1 to 3 to pay interest at 17% per annum for the amount paid the Respondents for the purchase of flats from date of execution of sale deed till date of filing the Complaint, and to pay interest on every month from date of Complaint till getting safe apartment as interest of delay in completion and handing over possession, to hand over of apartment with all common amenities as promised, to pay lossess and damages sustained to the Complainants, award costs etc.

3. This Authority, on the findings that the project in question is an ongoing real estate project to be registered under Section 3 of the of the Real Estate (Regulation and Development) Act, 2016, vide interim order dated 03.10.2024, in Complains No. 97/2024, 98/2024, 99/2024, 100/2024, 101/2024, 103/2024, 104/2024, 105/2024 & 106/2024 directed the Respondents No. 1 & 2/ promoters to register the project 'Chander Kunj Army Towers, Silver Sand Island, Vyttila' within 30 days from the date of receipt of the order under Section 3 of the said Act, failing the Authority would be constrained to invoke penal provisions under Section 59 of the said Act. In the result the Complains were found maintainable before tis Authority.

4. Even though the cases were posted to 03.03.2025 & 05.03.2025 for further hearing, it came to the notice of this Authority that the Hon'ble High Court of Kerala passed final order dated 03.02.2025, in a series of Writ Petitions No.

40178/2023 & 10400, 20298, 21253, 22536, 24221, 28289, 29703 and 35585/2024 which were pending before the Hon'ble High Court of Kerala, with respect to the project in question, directing the Army Welfare Housing Organisation, the 1st Respondent herein "to demolish and reconstruct Towers B and C to prevent causalities and protect lives and properties" and directing the District Collector to constitute a committee to make all the necessary arrangements to implement/execute the said order. There is also direction to the Army Welfare Housing Organisation "to pay the owners of Tower B and C, respective amounts per month towards expenses for alternate accommodation until reconstruction." It is also seen in the order empowering the 'Committee' "to make such complaints against those responsible for creating a situation that led to the demolition of the towers in question" and also empowering the Committee, "to decide any other matter that arises during evacuation, demolition or reconstruction subject to the provisions of law". In these circumstances, we are of the opinion that this Authority cannot intervene in any of the Complaints with respect to the project in question as such, because the said construction, ie, Towers B and C are going to be demolished through a process of law. Hence this Authority cannot proceed with registration of such a project which will not be inexistence physically after execution of the order passed by the Hon'ble High Court of Kerala, though it was found an ongoing project required to be

registered under Section 3 of the Real Estate (Regulation and Development) Act, 2016. It is also to be noted that no Complainants before this Authority sought refund of the amount as per Section 18 of the Real Estate (Regulation and Development) Act, 2016 but reliefs sought include directions for registration of the project in question, interest for delay in handing over possession, violation of building rules, handing over common area as promised to the allottees and to the association and so on.

5. In these circumstances, this Authority cannot proceed with these Complaints. In case the Complainants approach the Hon'ble High Court of Kerala and gets clarification about their right to get any remedy through this Authority, this Authority would proceed further with such fresh Complaints as per directions of the Hon'ble High Court of Kerala.

6. The above Complaints stands disposed of accordingly.

Sd/-
Preetha P. Menon
Member

Sd/-
Dr. B. Sandhya
Member

True Copy/Forwarded By/Order

Secretary (Legal)