



**KERALA REAL ESTATE REGULATORY AUTHORITY
THIRUVANANTHAPURAM**

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

Complaint No. 240/2022
Dated 27th January, 2025.

Complainant

M.B. Sanil Kumar,
“Leyam” TC No. 6/44, VAR,
291, Vattiyoorkkavu, Thiruvananthapuram
[Adv. Nair Ajay Krishnan]

Respondents

1. Nikunjam Constructions Private Limited,
T.C. 4/2554-3, Indraprastham,
Pattom P.O., Kowdiar Road, Thiruvananthapuram – 695 004.
2. S. Krishna Kumar, Managing Director,
Nikunjam Constructions Private Limited,
T.C.4/2554-3, Indraprastham, Pattom-P.O.,
Kowdiar Road, Thiruvananthapuram – 695 004.
3. Mrs. Diana Peter, W/o. Mr. Peter Pereira,
Julie Land, Mudiyacode, Cherunniyoor. P.O.,
Varkala, Thiruvananthapuram – 695 242.



4. Mr. Cyril L. Pereira, S/o. Lawrence J Pereira and
Mrs. Laila Cyril Pereira, W/o Cyril L Pereira,
Zirku Land, St. Andrews,
St. Xaviers College P.O., Menamkulam,
Thiruvananthapuram-695 586.
(Old Address: Seria House, Near N.E.S. Block,
Kazhakootam P.O., Thiruvananthapuram).
5. Nikunjam I Park Owners Association (NiPAOA),
Nikunjam Park, Near Block Office,
Kazhakootam. P.O.,
Thiruvananthapuram- 695 582.

[For R1 & R2 Adv. K. Muraleedharan Nair,
For R3. Adv. A Manoharan]

ORDER

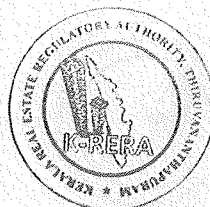
1. The Complainant is the allottee of apartments along with common amenities in respect to a real estate project named “Nikunjam I Park” at Kazhakkuttom village, Thiruvananthapuram. The 1st Respondent is the promoter and the 2nd is the Managing Director of the 1st Respondent Company. The above Complaint was filed seeking following reliefs:

- (i) *To direct the respondent to complete the construction of the Apartment No. 29 and 30 F(duplex) on the 29th and 30th floor allotted to the complainants in “Nikunjam I-Park” with all common amenities and facilities as promised in Agreement for*



sale and construction and hand over the same to the complainant within the time limit fixed by this Authority.

- (ii) To direct the Respondents to register the real estate project "Nikunjam I- Park" being constructed/executed by the respondents in 138.045 cents of property at Kazhakkootam Village comprised in Sy.No. 40/10-1, 37/11 and 40/17 with the Kerala Real Estate Regulatory Authority within the time limit fixed by this Authority as they have violated Section 3 of the Real Estate (Regulation and Development) Act 2016.*
- (iii) To direct the respondents to pay interest per month to the applicant for delay in handing over the possession of the flat from the agreed date of completion as mandated in the agreement for construction till actual date of handing over the possession of the flat.*
- (iv) To provide the building numbers and proper occupancy certificate from the local authorities to all the allottees in the project including the applicant and provide them with separate electric connection and water connection.*
- (v) To provide the applicant or the Association of the Allottees with the completion certificate that the project has been developed according to the sanctioned plan and specification as approved by the competent authorities.*
- (vi) To initiate prosecution proceedings under Sections 59, 60, 61 and 62 of the Act as the respondents have violated Sections 3, 4, 11, 18 and 19 of the Act and punish them accordingly.*



(vii) *To allow Rs. 50,000/- towards cost and advocate fee to the complainant.*

2. The Respondents/promoters No 1 & 2 and the Respondent No. 3 filed counter statements, challenging the maintainability of the Complaint. This Authority, on receiving Complaint No. 262/2021 filed by one of the allottees of the same project against the Respondents above, initiated Suo-moto proceedings vide file K-RERA No. T1/3284/2021 for registering the project under Section 3 of the Real Estate (Regulation and Development) Act, 2016 [herein after referred to as 'the Act, 2016'] issuing show cause notice to the Respondents/promoters. One of the Reliefs sought for in the above Complaint No.240/2022 was also to direct Respondents/Promoters to register the project under Section 3 of the Act, 2016. After examining the explanation submitted by the Promoters of the project and documents placed on record and also hearing the parties, this Authority found that the project in question is an ongoing project required to be registered under the Act, 2016. Hence as per order dated 24.07.2023, in Suo-moto proceedings K-RERA No. T1/3284/2021, this Authority has issued direction to the promoters of the project "Nikunjam I Park" to register their project before this Authority within 30 days of receipt of the said order. The Respondents/promoters challenged the said order in appeal before the Hon'ble Kerala Real Estate Appellate Tribunal and the Appellate Tribunal vide order dated 13.11.2024 in REFA



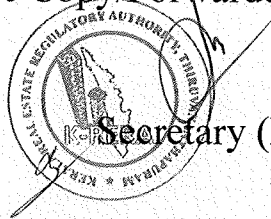
No. 49 of 2023, has set aside the said order. As per the order dated 13.11.2024, the Hon'ble Tribunal found that the project in dispute is not an ongoing project liable to be registered under Section 3 of the Act, 2016 and it is a finished and completed project before the coming in to force of Section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

3. On the basis of the judgement of the Hon'ble Appellate Tribunal, this Authority lost jurisdiction to entertain the above Complaint No. 240/2022 and hence it is hereby dismissed.

Sd/-
Preetha P. Menon
Member

Sd/-
P. H. Kurian
Chairman

/True Copy/Forwarded By/Order/



Secretary (Legal)

1. 2. 3. 4. 5. 6.

The first of these is the fact that the system is not a simple one. It is a complex system, and the complexity is not only in the number of components, but also in the way they are connected. The second is the fact that the system is not a static one. It is a dynamic system, and the dynamics are not only in the way the components interact, but also in the way the system evolves over time. The third is the fact that the system is not a linear one. It is a non-linear system, and the non-linearity is not only in the way the components interact, but also in the way the system evolves over time. The fourth is the fact that the system is not a deterministic one. It is a stochastic system, and the stochasticity is not only in the way the components interact, but also in the way the system evolves over time. The fifth is the fact that the system is not a simple one. It is a complex system, and the complexity is not only in the number of components, but also in the way they are connected. The sixth is the fact that the system is not a static one. It is a dynamic system, and the dynamics are not only in the way the components interact, but also in the way the system evolves over time. The seventh is the fact that the system is not a linear one. It is a non-linear system, and the non-linearity is not only in the way the components interact, but also in the way the system evolves over time. The eighth is the fact that the system is not a deterministic one. It is a stochastic system, and the stochasticity is not only in the way the components interact, but also in the way the system evolves over time.

