Suo-Motu Petition No/2-2025

Date of hearing 18.07.26

In the matter of :-"Sandeep Sethi" and Sh. Rakesh Malhotra, his son Sh. Saurabh Malhotra, and Smt. Sangeeta Malhotra Bridge View Hotel the Mall Shimla HP-1
Regarding Non-registered project & violation of Section -3 of the RERD Act, 2016 by
Present:- 1 Sh. Parveen Sharma, Advocate along with respondent 2.Sh. Saurabh Malhotra.
2. None appeared on behalf of respondent No. 1, Sh. Sandeep Sethi.

WEBEX HEARING

The present matter was listed for hearing on 20.06.2026. However, owing to the shifting of the office of the Authority from Shimla to Dharamshala, the hearing could not be conducted on the said date. Accordingly, the matter was taken up for hearing today, i.e., 18.07.2026. Sh. Parveen Sharma, Advocate, appeared along with respondent No. 1, Sh. Saurabh Malhotra. None appeared on behalf of respondent No. 2, Sh. Sandeep Sethi, despite the matter being called.

Pursuant to the directions issued by this Authority, the Municipal Corporation, Shimla has submitted its report vide Letter No. MCS/2284/MU/2020-2298 dated 07.05.2026, which is taken on record.

Background of the Case

1. The present suo motu proceedings were initiated upon receipt of an approved building plan dated 15.10.2024, received from the Municipal Corporation, Shimla on 23.10.2024, sanctioned in favour of Sh. Rakesh Malhotra, Sh. Saurabh Malhotra and Smt. Sangeeta Malhotra in respect of land measuring 557 square metres situated at Mohal Ridge, Shimla, comprising six dwelling units. Since the sanctioned project prima facie appeared to fall within the ambit of a "real estate project" under the Real Estate (Regulation and Development) Act, 2016, the applicants were advised to register the project under Section 3 of the Act.
2. In response, the applicants submitted that the proposed construction was exclusively for the personal residential use of the family members and was

neither intended for sale nor for any commercial purpose. The Authority accordingly called upon the applicants to furnish undertakings affirming that no apartment or unit would be sold or marketed. Simultaneously, the concerned Tehsildar was requested not to entertain any sale transaction relating to the property until further orders. In compliance, Sh. Saurabh Malhotra furnished the requisite undertaking.

3. Upon examination of the Jamabandi and other revenue records, it was noticed that the property originally belonged to Smt. Nidhi Kuthiala, who had sold the existing three-storeyed building to Sh. Sandeep Sethi vide registered Sale Deed No. 309 dated 16.05.2023, entered in the revenue records vide Mutation No. 748 dated 17.05.2023. Thereafter, Sh. Sandeep Sethi transferred the entire built-up structure in favour of Sh. Rakesh Malhotra, Sh. Saurabh Malhotra and Smt. Sangeeta Malhotra through registered Sale Deed No. 316 dated 18.05.2023, which was entered in the revenue records vide Mutation No. 749 dated 23.05.2023. A lease deed in respect of the remaining land for a period of ninety-nine years was also executed in their favour and sanctioned vide Mutation No. 750 dated 23.05.2023.

4. In view of the aforesaid transactions, it prima facie appeared that the built-up property had been transferred without registration under the Real Estate (Regulation and Development) Act, 2016. Accordingly, the matter was placed before the Authority on 30.07.2025, and a statutory show cause notice under Section 59(1) of the Act was issued to Sh. Sandeep Sethi.

5. In response, Sh. Vaibhav Gupta, authorised representative of Sh. Sandeep Sethi, appeared before the Authority and filed a detailed written reply. It was submitted that Sh. Sandeep Sethi had merely purchased an existing three-storeyed building from Smt. Nidhi Kuthiala and had thereafter transferred the entire property through a single registered sale deed in favour of the present owners. It was specifically contended that he had not undertaken any development activity, had not applied for any building permission and had not acted as a promoter of any real estate project. It was further submitted that the building plan dated 15.10.2024 had been sanctioned exclusively in the names of the subsequent purchasers, who intended to construct the building solely for their personal

residential use. Accordingly, it was contended that no violation of Section 3 of the Act was attributable to Sh. Sandeep Sethi.

6. Upon consideration of the reply and the documents placed on record, the Authority observed that although the proceedings had initially been initiated against Sh. Sandeep Sethi on account of the transfer of the property, the sanctioned building plan stood exclusively in the names of Sh. Rakesh Malhotra, Sh. Saurabh Malhotra and Smt. Sangeeta Malhotra, who were the present owners and proposed developers of the property. Since determination of the applicability of Section 3 of the Act required examination of the sanctioned project and the intention behind the proposed development, the Authority considered them to be necessary parties to the proceedings.

7. Accordingly, Sh. Rakesh Malhotra, Sh. Saurabh Malhotra and Smt. Sangeeta Malhotra were impleaded as respondents and directed to appear before the Authority.

8. Thereafter, Sh. Saurabh Malhotra appeared on behalf of all the present owners and submitted a detailed reply stating that the construction was being undertaken exclusively for the personal residential use of the family members and that no apartment, floor or dwelling unit had ever been advertised, marketed, booked, allotted or sold to any third party. The respondents also expressed their willingness to furnish affidavits affirming the said position.

9. For proper adjudication of the matter, the Authority directed the Municipal Corporation, Shimla and the concerned Tehsildar to furnish detailed reports regarding the sanctioned building plan, the revenue records, the Jamabandi, the Tatima and the status of the land.

10. In compliance with the directions issued by the Authority, the Tehsildar submitted the complete Jamabandi, Tatima and other revenue records, while the Municipal Corporation, Shimla submitted its report explaining that the building plan had been approved after due consideration by the Single Umbrella Committee and the State Heritage Advisory Committee and was thereafter sanctioned on 15.10.2024 in accordance with the applicable planning norms.

11. The Authority has carefully examined the reports submitted by the Municipal Corporation and the Tehsildar, along with the Jamabandi, Tatima, sale deed, lease deed, sanctioned building plan and the entire record of the case.

12. Upon such examination, no material has emerged indicating that either Sh. Sandeep Sethi or the present respondents have undertaken any advertisement, marketing, booking, allotment or sale of any apartment or unit after sanction of the building plan. The enquiry further reveals that Sh. Sandeep Sethi merely transferred the existing property through a registered sale deed and did not undertake any development of the project. Likewise, no evidence has been brought on record to establish that the present respondents are developing the project for the purpose of sale so as to attract the provisions of Section 3 of the Real Estate (Regulation and Development) Act, 2016.

13. The consistent stand of the respondents throughout the proceedings has been that the construction is exclusively for the personal residential use of their family members and not for sale or commercial exploitation. The reports submitted by the Municipal Corporation and the Tehsildar do not disclose any material contradicting the said stand.

14. Accordingly, this Authority is satisfied that the initial suspicion regarding violation of Section 3 of the Real Estate (Regulation and Development) Act, 2016 has not been substantiated. In the absence of any material establishing advertisement, marketing, booking, allotment, sale or transfer of any apartment or unit, no case survives for further proceedings under the Act.

15. Consequently, the present **Suo Motu Petition No. 2 of 2025** is disposed of and the proceedings are hereby dropped. However, it is clarified that this order has been passed on the basis of the material presently available on record and the statements made by the respondents. In the event any material comes to light in future indicating advertisement, marketing, booking, sale or transfer of any apartment or unit in contravention of the provisions of the Real Estate (Regulation and Development) Act, 2016, it shall be open to this Authority to initiate appropriate proceedings in accordance with law.

Sh. RD Dhiman
Chairperson

Sh. Vidur Mehta
Member