

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 12th OF JUNE, 2023

WRIT PETITION No. 11550 of 2022

BETWEEN:-

**ACCRUAL REALITIES PVT. LTD. REGISTERED OFFICE THROUGH
ITS DIRECTOR AND AUTHORIZED SIGNATORY MR. KAVINDRA
SAMVATSAR, C/O. LATE SHRI SHUBHAR SAMVATSAR, AGER**

.....PETITIONER

**(SHRI ABHINAV DHANODKAR, LEARNED COUNSEL FOR THE
PETITIONERS.)**

AND

- 1. THE STATE OF MADHYA PRADESH THROUGH CHIEF SECRETARY
VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
THE INSPECTOR GENERAL DEPARTMENT OF STAMPS AND**
- 2. REGISTRATION PANJEEYAN BHAWAN NEAR DISTRICT COURT
ARERA HILLS (MADHYA PRADESH)
THE CHAIRMAN THE REAL ESTATE REGULATORY AUTHORITY**
- 3. OF MADHYA PRADESH 1, RERA BHAWAN ARERA HILLS (MADHYA
PRADESH)**

.....RESPONDENTS

**(SHRI SUDARSHAN JOSHI, LEARNED GOVT. ADVOCATE FOR
RESPONDENTS/STATE.)**

This petition coming on for hearing this day, the court passed

the following:

ORDER

1. The petitioners have filed the present petition being aggrieved by order dated 19.4.2022 passed by respondent No.3 – Real Estate Regulatory Authority (RERA) whereby the application for registration has been dismissed. At the time of filing this petition, the Appellate Tribunal was not functioning therefore the petitioner has directly approached this Court by way of present petition.
2. Petitioner No.1 is a private limited company registered under the provisions of Companies Act, 1956 engaged in the business of development of real estate. Petitioners No.2 and 3 being the land owners entered into a development agreement dated 11.2.2021 with petitioner No.1. In pursuant to the aforesaid agreement, petitioner No.1 obtained necessary permissions and NOCs from various departments to implement joint venture agreement in the name of “24 CARAT EXTN.” After completing all the requisite formalities, petitioner No.1 preferred an application u/s. 4 of Real Estate (Regulation and Development) Act, 2016 for registration of the said project. Respondent No.3 considered the application of petitioner No.1 and rejected the same on the ground that the agreement dated 11.2.2021 is not properly stamped. According to respondent No.3, under Article 6(1)(d) of the Indian Stamps Act, stamp duty of Rs.22,40,333/- is liable to paid and instead petitioner No.1 has only paid the stamp duty of Rs.12,45,630/-. Hence, the present petition before this Court.
3. After notice, respondents No.1 and 2 have filed the reply in this petition by submitting that if any authority finds that the instrument produced before him is not properly stamped, then such authority can

impound the same under the Indian Stamps Act. Respondents No.1 and 2 have filed the reply in support of the order passed by respondent No.3.

I have heard the learned counsel for the parties and perused the material available on record.

4. If respondent No.3 – RERA has come to the conclusion that the agreement in question is not duly stamped, then it was incumbent upon to refer the said document to the Registrar of Stamps for impounding instead of dismissing the application for registration. Shri Abhinav Dhanodkar, learned counsel appearing for the petitioners, submits that the petitioner No.1 has rightly paid the stamp duty of Rs.12,45,630/- since it was not the issue before respondent No.3 for adjudication, otherwise petitioner No.1 could have satisfied that there is no deficiency in payment of stamp duty.

5. In view of the above, impugned order dated 19.4.2022 is hereby set aside. The matter is remitted back to respondent No.3 to decide the application afresh. The issue of payment of stamp duty be decided after giving opportunity of hearing to the petitioners. If respondent No.3 finds that any report is required from the Registrar/Sub Registrar of Stamps, then the same shall be obtained. If any deficiency of stamp duty is found, the petitioner should be given an opportunity to deposit the deficit stamp duty. Let the entire exercise be completed within 45 days from today.

With the aforesaid, this petition stands disposed

**(VIVEK RUSIA)
JUDGE**

Alok/-