

**BEFORE THE MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL, MUMBAI**

**MISC. APPLICATION OF 278 OF 2023 (stay)
IN**

(16) APPEAL NO. AT006000000134162 OF 2022

Balaji Construction Company

.. Appellant

-VS-

Jayantilal Makwana

.. Respondent

WITH

**MISC. APPLICATION OF 276 OF 2023 (stay)
IN**

(17) APPEAL NO. AT006000000134167 OF 2022

Balaji Construction Company

.. Appellant

-VS-

Prashant S. Mahajan

.. Respondent

WITH

**MISC. APPLICATION OF 277 OF 2023 (stay)
IN**

(18) APPEAL NO. AT006000000134185 OF 2022

Balaji Construction Company

.. Appellant

-VS-

Hetal B. Shah & Anr.

.. Respondents

WITH

**MISC. APPLICATION OF 273 OF 2023 (stay)
IN**

(19) APPEAL NO. AT006000000134186 OF 2022

Balaji Construction Company

.. Appellant

-VS-

Shashikumar Mishra & Anr.

.. Respondents

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WITH
MISC. APPLICATION OF 280 OF 2023 (stay)
IN
(20) APPEAL NO. AT006000000134187 OF 2022

Balaji Construction Company .. Appellant
-VS-
Achala Abhijit Patil .. Respondent

WITH
MISC. APPLICATION OF 275 OF 2023 (stay)
IN
(21) APPEAL NO. AT006000000134188 OF 2022

Balaji Construction Company .. Appellant
-VS-
Chintan Mahesh Shah & Anr. .. Respondents

WITH
MISC. APPLICATION OF 274 OF 2023 (stay)
IN
(22) APPEAL NO. AT006000000134189 OF 2022

Balaji Construction Company .. Appellant
-VS-
Anjusha Ajit Kadam & Anr. .. Respondents

WITH
MISC. APPLICATION OF 279 OF 2023 (stay)
IN
(23) APPEAL NO. AT006000000134199 OF 2022

Balaji Construction Company .. Appellant
-VS-
Vikram B. Shah & Anr. .. Respondents

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WITH
(24) APPEAL NO. AT006000000134175 OF 2023

Chintan M. Shah & Anr. .. Appellants

-vs-

.. Respondents

Balaji Construction Co. & Ors.

WITH
(25) APPEAL NO. AT006000000134176 OF 2023

Hetal B. Shah & Anr. .. Appellants

-vs-

.. Respondents

Balaji Construction Co. & Ors.

WITH
(26) APPEAL NO. AT006000000134177 OF 2023

Mrs. Anjusha Ajit Kadam & Anr. .. Appellants

-vs-

.. Respondents

Balaji Construction Co. & Ors.

WITH
(27) APPEAL NO. AT006000000134178 OF 2022

Mrs. Achala Abhijit Patil .. Appellant

-vs-

.. Respondents

Balaji Construction Co. & Ors.

Adv. Mr. Gauraj Shah a/w Adv. Ms. Shweta Singh for Appellant in Sr. Nos. 16 to 23.

Adv. Ms. Padma Chinta for Respondents in Sr. Nos.18,19,20,21,22 and 23 and for appellants in Sr. Nos.24,25,26 & 27.

Mr. Prashant Mahajan/Respondent in Sr. No.17 present in person.

Adv. Ms. Neha Shah for Respondent in Sr. No.16.

Adv. Ms. Shweta Singh for Respondent Nos.24 to 27.

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**CORAM : SHRIRAM R. JAGTAP, MEMBER (J) &
Dr. K. SHIVAJI, MEMBER (A)**

DATE : 26th July, 2023.

(THROUGH VIDEO CONFERENCING)

Adv. Ms. Shweta Singh submits that appellants have filed additional affidavit and served copy of the same to other side. Adv. Ms. Padma Chinta submits that the respondent in appeals at Sr. Nos.18 to 23 have not received copy of the same. The respondent in appeal at Sr. No.17 submits that he has received copy of the same on yesterday by email. Adv. Ms. Singh undertakes to serve copy of additional affidavit to rest of the respondents.

2] Adv. Mr. Gauraj Shah submits that the appellant has filed additional affidavit in all matters with regard to computation of amount of interest and served copies of the same to other side. Adv. Ms. Padma Chinta submits that they have not received copies of the same.

3] Adv. Ms. Neha Shah for respondent in Appeal AT006000000134162 submits that according to respondent after calculation amount of interest comes to Rs.2,39,353/-. She further submits that the respondent has calculated interest from the date of possession i.e. from 1.4.2019 till filing of affidavit i.e. 26.6.2023. Mr. Mahajan/respondent in Appeal No.AT006000000134167 submits that he has calculated interest from 1.4.2023 to 15.6.2023 which comes to Rs.2,88,051.



4] Adv. Ms. Padma Chinta submits that in the following appeals the respondents have calculated interest from the date of possession i.e. from December 2012 and March 2017 till 23.6.2023 and amount of interest comes to –

<u>APPEAL NOS.</u>	<u>AMOUNTS</u>
AT006000000134185	Rs.1,60,256/-
AT006000000134186	Rs.3,66,062/-
AT006000000134187	Rs.6,66,000/-
AT006000000134188	Rs.1,17,477/-
AT006000000134189	Rs.1,33,200/-
AT006000000134199	Rs.1,35,512/-

5] Despite ample opportunity, the appellant has failed to file affidavit with regard to computation of interest. Adv. Mr. Shah submits that as per impugned order, the promoter is entitled to set off on interest amount against the outstanding dues payable by the allottees. He further submits that the promoter is supposed to pay interest on the actual amount i.e. excluding amount paid towards the stamp duty, taxes, etc. Besides the promoter is also entitled to claim benefit of "moratorium period" as mentioned in Notification dated 2.4.2020 and 18.5.2020 issued by the MahaRERA. It is significant to note that till date the appellant have not filed affidavit of computation of amount.

6] In order to give fair and reasonable opportunity appellant to file additional affidavit with regard to computation of interest last chance is granted, failing which Tribunal will consider the submissions of respondents and necessary orders will be passed

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7] Stand over to 25th August 2023 for filing additional affidavit by the appellants and order in appeal at Sr Nos.16 to 23 and for filing reply of respondent in appeal at Sr Nos.24 to 27.


(Dr. K. SHIVAJI)

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(SHRIRAM R. JAGTAP)