

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

**M.A. No. 04/2023 (stay)**  
**M.A. No. 270/23 (Considering Exiting amount)**  
**In**  
**29) Appeal No. AT005000000144216/22**

K. R Real Estate Pvt. Ltd. ...Appellant

V/s.

Simit Thakur ...Respondent

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*Adv. Ms. Srushti Pawar h/f Adv. Mr. Abhijeet Mangade for Appellant*  
*Adv. Mr. Sarthak Shukla for Respondent*

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

**DATE : 23<sup>rd</sup> April, 2024**

(THROUGH VIDEO CONFERENCE)

1] Advocate Mr. Sarthak Shukla submits that he has filed Vakalatnama and reply to Appeal. He further submits that he has served the copy of reply to the other side. Advocate Ms. Srushti Pawar submits that the Appellant has not received the copy of reply. Advocate Mr. Sarthak Shukla undertakes to re-serve the same to the other side.

2] Record reveals that by Misc. Application No.270/2023, the Appellant has prayed to direct the Registry to refund the amount of Rs.82,798/- alongwith accrued interest to Appellant/ Promoter on the grounds enumerated in the application. It transpires from the application that the Appellant has deposited amount in another Appeal No.AT006000000041876. According to him, he has deposited excess amount in the said Appeal. It is expected of Appellant to move appropriate application in the said proceedings. Instead of moving



application in the said Appeal, the Appellant chose to move the instant application in the present Appeal which is devoid of merits. Therefore, we do not find substance in the application. Application being devoid of merits stands rejected.

3] Record reveals that by the Order dated 12<sup>th</sup> April, 2023 the Appellant was directed to deposit entire amount as per the impugned Order dated 29<sup>th</sup> October, 2022 towards compliance of proviso to Section 43(5) of RERA Act, 2016. Instead of complying with this Order, the Appellant has moved Misc. Application No.270/2023 for refund of amount, which has been deposited in another proceedings by the Promoter and which has no relevance with this Appeal. Now Advocate Ms. Srushti Pawar seeks time to deposit the amount.

3] Record reveals that since one year the Appellant/ Promoter has failed to deposit the amount in the matter. However, in the interest of justice, last chance is granted to comply with proviso to Section 43(5) of RERA subject to cost of Rs.10,000/-. The Appellant Promoter shall pay cost of Rs.10,000/- to Respondent on or before the next date. Cost is a condition precedent.

4] If Appellant fails to pay cost of Rs.10,000/- to Respondent on or before the next date and also fails to comply with the proviso to Section 43(5) of RERA Act, 2016, the Appeal will be summarily dismissed for want of compliance.

5] Stand over to 7<sup>th</sup> May, 2024 for compliance of proviso to Section 43(5) of RERA and for depositing cost of Rs.10,000/-

  
(DR. K. SHIVAJI)

  
(SHRIRAM. R. JAGTAP)