

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL  
MUMBAI**

**APPEAL NO. AT006000000164615/23**

M/s. Surana Construction (Chembur)  
Through Partner Mr. Surendra Surana

... Appellant

-VS-

Mr. Rahul Makhijani & Anr.

... Respondents

*Mr. C. A. Ashwin Shah, Advocate for Appellant.*

*Mr. Manoj Makhijani for Respondents.*

**CORAM : SHRI S. S. SHINDE J., CHAIRPERSON, &**

**DR. K. SHIVAJI, MEMBER (A)**

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

**(THROUGH VIDEO CONFERENCE)**

**ORAL ORDER**

Mr. C. A. Ashwin Shah submits that compliance of proviso to section 43(5) be waived in view of the direction to the Promoter in the impugned order is payable not now.

2. Perused.

3. Admittedly, appeal has been filed by the Promoter.

4. As per the proviso to section 43(5), it is statutorily pre-requisite to comply with the requirements of the proviso before the appeal is entertained and bare perusal of section 43(5) clearly reveals that amount determined are required to be pre-deposit to secure the amount which are payable as per the impugned order to Allottees either now or

otherwise.

5. Therefore, Promoter is directed to deposit the entire amount as per the impugned order dated 28<sup>th</sup> June 2023 towards the compliance of proviso.
6. Mr. C. A. Ashwin Shah upon instructions seeks 45 days' time to comply with the proviso by depositing the entire amount.
7. Parties are at liberty to complete the pleadings.
8. Stand over to 21<sup>st</sup> Mar. 2024 for compliance 43(5) and reply.



**(DR. K. SHIVAJI)**

MS/-



**(S. S. SHINDE, J.)**