

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

**MISC. APPLICATION NO. 439 OF 2022  
(Arrest Warrant against R-2 & R-3)  
WITH  
MISC. APPLICATION NO. 507 OF 2022  
IN  
EXECUTION APPLICATION NO. 19 OF 2021  
IN  
APPEAL NO. AT006000000031769 OF 2019**

Ms. Smita Bhikaji Kaskar  
Vs.

**...Applicant.**

1] Nirmal Lifestyle Ltd.  
2] Mr. Dharmesh Jain  
3] Mr. Rajeev Jain

**...Non-Applicants**

---

*Adv. Mr. Nitin Kaskar for Applicant.*

*Adv. Mr. Mihir Nerurkar for Non-Applicants.*

---

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

**DATE : 30<sup>th</sup> August, 2023.**

**(THROUGH VIDEO CONFERENCING)**

Following order is passed-

**ORDER**

**1]** Misc. Application No.439 of 2022 is allowed. Misc. Application No. 507 of 2022 is partly allowed.

**2]** The judgment debtor Nos.2 and 3 shall pay Rs.20,08,808/- to

the decree holder.

**3]** The judgment debtor nos.2 and 3 shall pay Rs.6,46,290/- to the decree holder as sought by her in her affidavit dated 14.4.2023.

**4]** The judgment debtor nos.2 and 3 shall pay the aforesaid amounts to decree holder within 8 days from the date of uploading of this order, failing which warrant of arrest shall be issued against the judgment debtor nos.2 and 3 on depositing subsistence allowance by the applicant as per Order 21 Rule 39 of the Code of Civil Procedure.

**5]** In case the judgment debtors make default in making payments as above, the applicant/decreed holder shall deposit subsistence allowance in the Tribunal and upon depositing the same by applicant, the Registry is directed to issue warrant of arrest against the judgment debtor nos.2 and 3 for their detention in civil prison for a period of three months. The warrant of arrest be sent to the City Civil Court, Mumbai for its execution.

**6]** Adv. Mr. Nerurkar submits that order be stayed as the non-applicants intend to prefer an appeal against this order.

The record shows that the project is not yet completed. The developer has not received occupation certificate. Allottee has not yet received possession of the subject flat. Therefore, considering peculiar

*S. J. K.*

circumstances of the case, we are of the view that the impugned order cannot be stayed. Hence request for stay of the order is rejected.

Stand over to 14<sup>th</sup> September 2023 for further consideration.

  
(DR. K. SHIVAJI)

Dond

  
(SHRIRAM R. JAGTAP)