

Nalawade

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

APPEAL NO. AT005000000052136 OF 2020

Ashdan Developers Pvt. Ltd.

... Appellant

-VS-

Suhas Choudhari

... Respondent

Mr. Radhikesh V. Uttarwar, Advocate for Appellant.

Mr. Nilesh Borate, Advocate for Respondent.

CORAM : SHRI SHRIRAM R. JAGTAP, MEMBER (J) &

DR. K. SHIVAJI, MEMBER (A)

DATE : 21st FEBRUARY, 2024

(THROUGH VIDEO CONFERENCE)

Learned counsel for parties joined the conference.

2] Learned counsel for Appellant upon instructions submits that Appellant has filed an application on 20.01.2024 seeking to withdraw the present Appeal and also to permit Appellant Promoter to withdraw ₹ 06,65,000/- deposited towards the compliance of the Proviso to Section 43(5) of the Act of 2016.

3] Learned counsel for Respondent vehemently opposed the application for withdrawal on the ground that the judgment decree is in favor of Allottee Respondent and the matter was already under execution, which has been stayed upon the compliance of the Proviso to Section 43(5) of the Act.

4] Learned counsel for Respondent upon instruction further submits that in the event, the Appeal is withdrawn, then ₹ 06,65,000/-



deposited by Appellant Promoter towards the compliance of the Proviso to Section 43(5) of the Act of 2016 be allowed to the withdrawn by Respondent Allottee and not be ^{by} Appellant promoter as well as the stay against execution proceedings be vacated.

5] Learned counsel for Appellant Promoter upon instruction submits that the request made in the application for withdrawal of ₹ 06,65,000/- pre-deposited by Appellant Promoter, it may be allowed to be withdrawn by Respondent Allottee.

6] Perused.

7] In view of Application for withdrawal made by the Appellant Promoter, Appeal stands disposed of as withdrawn.

8] ₹ 06,65,000/- pre-deposited towards the compliance of the Proviso to Section 43(5) of the Act of 2016 along with accrued interest, if any is allowed to be withdrawn by Respondent Allottee and request to withdraw this amount by Appellant promoter stands rejected..


9] Registry to allow withdrawal of amount ₹ 06,65,000/- along with accrued interest, if any by Respondent allottee, as and when the request is made following the standard procedure.

10] In view of the provision of Section 44(4), copy of this order will be sent to the parties and also to MahaRERA to take necessary steps in the execution proceeding appropriately.

11] Appeal stands disposed of on above terms.

12] No costs.


(DR. K. SHIVAJI)


(SHRIRAM R. JAGTAP, J.)