

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

**EXECUTION APPLICATION NO. 25 OF 2023
IN
APPEAL NO. AT006000000052964 OF 2022**

Mr. Arjun M. Gawade
-VS-

.. Applicant

Kamal Joshi

.. Non-Applicant

*Adv. Mr. Nitin Kaskar for Applicant.
Adv. Mr. Deepan Dixit for Non-Applicant.*

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

DATE : 25th August, 2023.

(THROUGH VIDEO CONFERENCING)

Adv. Mr. Nitin Kaskar undertakes to file vakalatnama on behalf of applicant.

2] Adv. Mr. Deepan Dixit submits that the operative part of the impugned order does not disclose from when the promoter is liable to pay interest on the amount paid by allottee, therefore, the non-applicant is supposed to pay only amount of Rs.15.00 lakhs. We do not find substance in the submissions of learned Advocate for non-applicant.

3] A perusal of order passed by this Tribunal, more particularly para-24 of the order would make it clear that the promoter is supposed to pay interest on the amount paid by the complainant at prescribed rate under the RERA Act, 2016.

Sgtar

4] Clause (za) of Section 2 of RERA Act, 2016 defines "interest". It lays down that "interest" means the rates of interest payable by the promoter or the allottee, as the case may be. Clause (ii) of the explanation appended to said definition clarifies that the interest payable by the promoter to allottee shall be from the date of promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid. Therefore, it is crystal clear that the promoter is supposed to pay interest on the amount paid by the complainant from the date of payments. Despite this the promoter has unnecessarily raised issue and tried to misguide the Tribunal by submitting that operative part of the judgment is silent on the point of date from which interest is to be paid. Apart from this, the promoter has not paid principal amount to allottee and therefore, the Registry is directed to issue warrant for recovery of amount against the non-applicant.

5] Now the non-applicant Mr. Kamal Joshi undertakes to deposit the amount in this Tribunal as per his calculations. In view of this statement, the warrant is stayed.

6] Stand over to 8th September 2023 for depositing amount.


(DR. K. SHIVAJI)

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(SHRIRAM R. JAGTAP)