

Nalawade

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

MISC. APPLICATION NO. 40 OF 2024 (Delay)
WITH
MISC. APPLICATION NO. 309 OF 2023 (Restoration)
IN
APPEAL NO. AT006000000053180 (D.)

CCI Projects Private Limited

... Applicant

-VS-

Amit Bhattacharya & Ors.

... Non-applicants

Mr. Abir Patel, Advocate for Applicant/Promoter a/w. Ms. Riddhi Shah, Authorized Representative.

Mr. Amit Bhattacharya and Mrs. Moushami Bhattacharya, Non-applicants/Allottees-in-person a/w. C.A. Mr. R. S. Prabhu for Non-applicants.

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

DR. K. SHIVAJI, MEMBER (A)

DATE : 05th APRIL, 2024

(THROUGH VIDEO CONFERENCE)

Mr. Abir Patel, learned counsel for Applicant Promoter along with Ms. Riddhi Shah, authorized representative of Promoter Co., C.A Mr. R. S. Prabhu for Non-applicants/Allottees along with Mr. Amit Bhattacharya and Mrs. Moushami Bhattacharya, parties-in-person joined the conference and jointly submit that the matter has been amicably settled, consent terms have been executed, exchanged and filed.

2] Ms. Riddhi Shah, authorized representative on behalf of Applicant/Promoter M/s. CCI Project Private Limited submits that the amicable settlement has already taken place and confirms the signature on the consent terms.



3] Mrs. Moushami Bhattachary wife of Non-applicant No.1 confirms that the dispute has been amicably settled and consent terms have been signed, executed and exchanged. She further confirms her signature on the consent terms and also identifies and confirms the signature of her husband i.e., Non-Applicant No.1.

4] Advocate Mr. Abir Patel submits that Misc. Application No.309/2023 has been filed for restoration of the captioned appeal, which was dismissed for want of compliance of the Proviso to Section 43(5) of the Act of 2016 vide order of this tribunal dated 10.01.2023.

5] Learned counsel for Applicant upon instructions submits that amount of ₹ 62,94,395/- has already been deposited in the Tribunal towards the compliance of the Proviso for restoration of the captioned appeal as per order of this Tribunal on compliance of the Proviso in this appeal. Accordingly, the affidavit of compliance has also been filed as on page no.498 along with deposit receipt as on page 519 dated 27.04.2023, wherein the total amount of ₹ 11,73,85,449/- has been deposited towards the compliance of the Proviso for couple of other appeals preferred by the same Applicant promoter including for the captioned appeal i.e., 53180 for an amount of ₹ 62,94,395/-.

6] He submits that the captioned Misc. Application No.309/2023 for restoration has been filed beyond the prescribed stipulated period for condonation of delay in filing of restoration application by filing a separate Misc. Application No.40/2024 citing various grounds as elaborated therein for restoration of the appeal.

7] Learned C.A Mr. R. S. Prabhu appearing for Allottees have no objection to condone the delay.

8] Being not objected, delay is condoned.

9] Misc. Application No.40/2024 is allowed.



- 10] No costs.
- 11] Learned C.A Mr. R. S. Prabhu along with Allottees-in-person further submits that they have no objection to allow Misc. Application No.309/2023.
- 12] Perused.
- 13] Perusal of record accompanied by affidavit filed by Applicant promoter reveals that amount of ₹ 62,94,395/- has been deposited and compliance report has also been filed toward the compliance of the Proviso for this appeal.
- 14] In view of above, Misc. Application No.309/2023 is allowed.
- 15] Captioned appeal is restored to the file of this Tribunal, subject to condition that since this appeal is being restored based on the amicable settlement among the parties, this will not have any bearing in other connected appeals which have already been dismissed for want of compliance of the Proviso to Section 43(5) as well as this will not be quoted as a precedence for such other connected appeals.
- 16] Consent terms filed herein have already been verified.
- 17] Learned counsel for Applicant and learned C.A along with Allottees-in-person further confirms that the amicable settlement has already taken place. Accordingly, appeal stands disposed of in view of the consent terms.
- 18] No costs.
- 19] At this stage, learned counsel appearing for Applicant further submits that in view of the consent terms, amount deposited towards the compliance of the Proviso be allowed to be withdrawn by the respective parties in terms of Clause 7 of the consent terms.



20] In view of above, Registry is directed to allow Respondents/Allottees to withdraw ₹ 31,47,198/- from out of the pre-deposits made by Applicant promoter towards the compliance of the Proviso as and when formal request is received following the standard procedure.

21] Registry is further directed to allow the withdrawal of the remaining amount along with accrued interest, if any to the Applicant/Promoter as and when the formal application is received following the standard procedure.

22] Accordingly, captioned appeal stands disposed of on above terms.

23] No costs.


(DR. K. SHIVAJI)


(SHRIRAM. R. JAGTAP, J.)