

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

**M.A. No. 538/23 (Maintainability)
M.A. No. 563/23 (Amendment)
In
Appeal No. AT006000000063846/22**

Ramesh Vasudev Balgi & Ors. ... Appellants

V/s.

Rare Township Private Limited ... Respondent

Adv. Ms. Jennifer Michael for Appellants

Adv. Mr. Rubin Vakil for Respondent

**CORAM : SHRI S. S. SHINDE J., CHAIRPERSON, &
DR. K. SHIVAJI, MEMBER (A)**

DATE : 8th January, 2024

(THROUGH VIDEO CONFERENCE)

M.A. No. 538/23(Maintainability) and

M.A. No. 563/23 (Amendment)

Heard learned counsel for the parties.

- 2] Advocate Mr. Rubin Vakil, learned counsel appearing for Respondent submits that by Misc. Application No.538/2023, Respondent has raised the issue of maintainability of the appeal itself on the ground mentioned in the application *inter alia* that the project registration number mentioned in the original complaint is incorrect as 'P51800001041', instead of 'P51800000933'.
- 3] Project registration being crucial and the key numbers being incorrect, and it goes to the root of the matter. Thereby, the appeal itself has been rendered infructuous, and therefore,



deserves to be dismissed. This error is a fundamental error and Appellants have not corrected this even while filing the appeal.

4] While making submissions, learned counsel further admits that Appellants are entitled for the adjudication right but their complaint itself is erroneous. The impugned order has rightly been passed by MahaRERA by dismissing the complaint vide order dated 31st March 2022.

5] Per contra, Advocate Ms. Jennifer Michael appearing for Non-applicant/allottees/appellant submits that this error in the project registration is only a technical error/ typo error, which has crept in the complaint inadvertently and vehemently contested that this does not go to the root of the merits. Therefore, MahaRERA has erroneously dismissed the complaint.

6] Learned counsel further submits that even though the complaint was filed in 2018 but the impugned order was passed only in 2022. Even after the error was noticed by MahaRERA, no opportunity was provided to the Allottee to make appropriate corrections, which is in breach of the principles of natural justice.

7] Additionally, she further submits that there is no dispute with respect to the subject flat number, project identity as such and therefore, the Allottee has filed Misc. Application No.563/2023 for the necessary amendment of the Appeal/ Original complaint. Therefore, both the Misc. Applications are interconnected.

8] Perusal of record reveals that the incorrect project registration number crept in the complaint is nothing but an typo and technical error, which appears to have been due to inadvertence.

9] We find substance in the argument advanced by the learned counsel appearing for the appellant that, MahaRERA while noticing the incorrect project registration, no opportunity was granted to take appropriate step/s.



10] In view of the peculiar facts and circumstances of the case, we are of the considered view that this error is curable, which can be corrected at this stage for effective adjudication of the controversy in this matter and it is desirable in the interest of justice that the dispute be adjudicated on merits.

11] In these premises, Misc. Application No.538/2023 lacks substance and deserves to be rejected. Whereas, Misc. Application No.563/2023 deserves to be allowed and we proceed to pass the order as follows:-

ORDER

- (i) Misc. Application No.538/2023 stands rejected and Misc. Application No.563/2023 is allowed and disposed of as such.
- (ii) Applicant/allottee is permitted to take appropriate step/s for correction of the project registration number in the existing complaint appropriately and this correction is allowed to be corrected in compliant without any restriction of the limitation period.
- (iii) No costs.
- (iv) Copy of the order be sent to MahaRERA and to the parties as per Section 44(4) of the Act of 2016.

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At this stage, learned counsel for parties jointly submits that in view of the order for correction of the project registration number in the original complaint, captioned appeal be remanded to MahaRERA to adjudicate the matter afresh on merits.

2] Perused impugned order and in view of the submissions made by the learned counsel for the parties, we are of the view that for effective adjudication of the controversy in the matter , it requires to be adjudicated on merits and we proceed to pass order as follows:-



ORDER

- (i) Appeal is partly allowed.
- (ii) Impugned order dated 31st March 2022 is set aside.
- (iii) Captioned complaint after appropriate correction of existing complaint by allottee, is restored to the original file of MahaRERA and to be adjudicated afresh by keeping the rights and contentions of the parties open on merits after giving notice to the parties. Accordingly, the matter is remanded to MahaRERA, to be heard and to be decided afresh as expeditiously as possible in accordance with the law.
- (iv) Parties to appear before MahaRERA on 29th January 2024.
- (v) All the contentions of the parties are kept open.
- (vi) No costs.
- (vii) Copy of the order be sent to MahaRERA and to the parties as per Section 44(4) of the Act of 2016.


(DR. K. SHIVAJI)


(S. S. SHINDE, J.)

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