

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

**Misc. Application No. 543/2023  
(Production of Documents)**

**In**

**Appeal No. AT006000000073856 of 2022**

**In**

**Complaint No. CC006000000100917**

Rare Townships Private Limited ... Appellant

Versus

Ananth Venkatesan & Anr. ... Respondents

*Adv. Rubin Vakil for Appellant/Non-applicant.*

*Adv. Namrata Solanki for Respondents/Applicants.*

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

**DATE : 07<sup>th</sup> May, 2024**

**(THROUGH VIDEO CONFERENCING)**

**ORDER**

**[PER : SHRIRAM R. JAGTAP (J)]**

- 1) The respondents have moved this application for production of documents on the grounds enumerated in the application mainly on the ground that the appellant in its appeal memo has placed some new facts which were not mentioned in the reply filed by the appellant before the MahaRERA Authority. In

*S. Jagtap*

order to counter the new facts, the respondents intend to produce additional document to explain their stand in reasonable manner, the document is relevant to explain the case of respondents in a better way.

2) The appellant has filed reply to this application and has stiff opposition to the application. The appellant has contended that the respondents have failed to meet the requirements of provisions of Order 41 Rule 27 of the Code of Civil Procedure, 1908, which provides for production of additional evidence in Appellate Court and are seeking production of documents only for the purpose of explaining the facts of the respondents in the proper manner. The respondents have failed to make out a case as to how notwithstanding the exercise of due diligence, the documents were not within the knowledge of respondents or could not have been within their knowledge, after the exercise of due diligence at the time when the impugned order was passed. The respondents have further failed to justify as to how the documents are to be relied upon are important to enable this Tribunal to pass the judgment.

3) The appellant has further contended that plain reading of application reveals that only reason on basis of which the

*Spencer*

respondents are seeking production of documents is to explain the facts of the case of respondents in a better manner. The judgment sought to be produced by respondents has no application to facts and circumstances of the present appeal and the same is sought to be relied upon by the respondents for proving a point which is subject matter of another appeal filed by the respondents challenging the impugned order. The respondents have also failed to justify the reason as to how the email sought to be produced by the respondents is necessary for passing judgment and why the same was not produced before the learned Authority. With these contentions, the appellant has prayed for rejection of the application with cost.

- 4) We have heard learned Adv. Namrata Solanki for respondents/applicants and learned Adv. Rubin Vakil for appellant/non-applicant. The submissions advanced by learned counsel appearing for the respective parties are nothing but reiteration of contents of application and reply. The learned Adv. Rubin Vakil has placed his reliance on following citations:-



**A. Andisamy Chettiar Vs A. Subburaj Chettiar (2015) 17  
Supreme Court cases 713 (Civil Appeal No. 14055 of  
2015, decided on December 8, 2015)**

- 5) By this application, the respondents want to produce email of appellant which according to respondents, supports or strengthen their case. The appellant has mentioned some new facts in the appeal and therefore, in order to counter the said new facts and in order to strengthen the case of respondents, the said email is essential, and which may help the Tribunal in determining the controversy between the parties.
- 6) It is significant to note that it is not in dispute that the email is of the appellant. It means the documents sought to be produced on record by respondents is well within the knowledge of appellant and the appellant will not get surprised because of production of said email communication. We are of the view that if said email is allowed to be placed on record, no prejudice will cause to the appellant. The appellant will have an opportunity to explain the circumstances with regard to the said email.
- 7) Section 53 of the RERA Act, 2016 speaks about powers of the Tribunal, which lays down that the Appellate Tribunal shall not

*Speaker*



be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice. Sub-section 4 of Section 53 empowers the Tribunal to take recourse to the Code of Civil Procedure in respect of matters mentioned in clauses (a) to (g) and clause (b) speaks about requiring the discovery and production of documents. Therefore, we are of the view that the Tribunal can take recourse to the powers which are vested in Civil Court under the Code of Civil Procedure. In order to meet the justice if the production of documents is allowed subject to admissibility and relevancy of the document at the time of final hearing, no prejudice or harm will be caused to the appellant. Admissibility and relevancy of the documents can only be tested or decided at the time of final hearing of the matter.

8) Therefore, for the foregoing reasons, we are inclined to allow the application. Consequently, we proceed to pass the following order.

### **ORDER**

a) Miscellaneous Application No. 543 of 2023 for production of documents is allowed.



- b) The production of documents is allowed subject to keeping contentions of the parties open regarding admissibility and relevancy of the document to the matter in issue and subject to further view of this Tribunal about evidence sought to be adduced would enable to pronounce the judgment.
- c) Cost will abide in main cause.

  
(**DR. K SHIVAJI**)

  
(**SHRIRAM R. JAGTAP**)

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