

**BEFORE MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL MUMBAI**

**M.A. No. 435/23 (Injcn. Order)
M.A. No. 224/24 (I.R/Withdrawal)
M.A. No. 538/22 (Stay)
M.A. No. 1086/22 (Amendment)
Review No. 66/22**

In

13] Appeal No. AT006000000083897/22

Khambhati Modh Vanik Samaj, Mumbai

... Appellant

V/s.

Sakkar Bhimani & Ors.

...Respondents

Alongwith

**M.A. No. 539/22 (Stay)
M.A. No. 225/24 (I.R/Withdrawal)
Review No. 67/22**

In

14] Appeal No. AT006000000083898/22

Khambhati Modh Vanik Samaj, Mumbai

... Appellant

V/s.

Vinod Kumar Gupta & Ors.

...Respondents

Alongwith

**M.A. No. 540/22 (Stay)
M.A. No. 226/24 (I.R/Withdrawal)
M.A. No. 467/23 (R) (Addl. Evidence)
M.A. No. 306/24 (U/s. 44(6))
Review No. 68/22**

In

15] Appeal No. AT006000000083899/22

Khambhati Modh Vanik Samaj, Mumbai

... Appellant

V/s.

Sgupta

Chetan Vitlani & Ors.

...Respondents

Alongwith**M.A. No. 541/22 (Stay)****M.A. No. 227/24 (I.R/Withdrawal)****Review No. 69/22****In****16] Appeal No. AT006000000083900/22**

Khambhati Modh Vanik Samaj, Mumbai

... Appellant

V/s.

Anita Zatakia & Ors.

...Respondents

Adv. Ms. Snehal Chaudhari for Appellants in Sr. Nos. 13 to 16
Adv. Ms. Charmie Gandhi for Respondent Nos. 1 & 2 in Sr. No. 15
Adv. Ms. Vinodini Srinivasan for Respondent No. 1 in Sr. No. 16
Adv. Mr. Shravan Giri for Respondent No. 2 in Sr. Nos. 13 & 14
Adv. Mr. Bishwajeet Mukherjee for Respondent No. 3 in Sr. No. 13, 14 & 16

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

DATE : 3rd May, 2024**(THROUGH VIDEO CONFERENCE)**

1. Appellant has moved applications for withdrawal of these appeals with a liberty to approach the MahaRERA Authority to file appropriate application for reconsideration of the order dated 18.04.2022 as per provisions of MahaRERA Act and Rules.
2. We have heard learned counsel appearing for respective parties.
3. Adv. Charmie Gandhi, who is appearing for respondent nos. 1 & 2 has no objection for withdrawal of appeals but subject to no liberty, no third-party rights should be created, no delivery of the possession of the subject flat to third party and subject to heavy cost.
4. Adv. Shravan Giri appearing for Bhakti Enterprises has no objection for withdrawal of appeal subject to no liberty to approach to MahaRERA.



5. Adv. Biswajeet Mukherjee for New Developer has no objection for withdrawal of appeal but no liberty as sought by appellant be granted.
6. Adv. Vinodini Srinivasan has stiff opposition to the applications and respondent has filed reply to these applications and opposed the applications only on three grounds vis.-

- i) Trust has consumed substantial judicial time to the tune of several months in arguing the review application and therefore, the applicant ought not to be permitted to withdraw the captioned appeals and start afresh round of litigation, which will further consume judicial time before the MahaRERA.
- ii) Applicant/appellant is seeking to withdraw the captioned appeals only to circumvent the order of status quo passed by this Tribunal in favour of respondent no. 1 and other allottees.
- iii) The trust has not made out any of the legal grounds for withdrawal and in order to make out a case for withdrawal with liberty the applicant has to first establish that there is some formal defect in the pleadings.

The learned Advocate has placed reliance on the following citations:

a. K.S Bhoopathy & Ors v. Kokila & Ors (2000) 3 SCC 458

b. Rajaram v. baliram (2006) 2 Mh. Lj 693

c. Anil Kumar Singh v. Vijay Pal Singh (2018) 12 SCC 584

d. Royal Palms (India) Pvt Ltd v. State of Maharashtra

7. A perusal of impugned order reveals that the learned Authority has protected the rights of complainants/allottees of the project. Besides, the learned Authority has directed the owner to comply with the liabilities of the erstwhile promoter and handover possession of the subject flats to complainants as per the registered agreement for sale executed with the complainants. The learned Authority has further directed the owner to allot another flats to the complainants having similar area as booked by the complainants and execute the registered agreement for sale failing which it is directed to refund the entire money paid by the complainants along

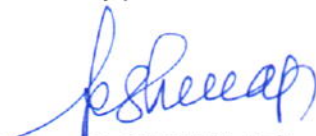
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with interest as prescribed under the provisions of Section 18 of RERA Act, 2016.

8. The learned Authority has further directed the owner to pay interest to the complainants for delayed possession.
9. Admittedly appellant trust is an owner of the property. The appellant wants to withdraw these appeals with a liberty to approach MahaRERA Authority to file appropriate application for reconsideration of the order dated 18.04.2022, on the grounds enumerated in the application i.e. impugned order is purely based upon the order dated 19.01.2022. It is not in dispute that allottees have partially challenged the impugned order to the extent that the new promoter should be held liable for the transaction. Considering the peculiar facts and circumstances of the case, we are of the view that following order would meet the end of justice.

ORDER

- A. Applications filed by appellant to withdraw the appeals stand allowed subject to cost of Rs. 10,000/- in each appeal in the Tribunal.
- B. The appellant sought liberty to approach the MahaRERA Authority. Liberty as sought is granted subject to law of limitation and as per provisions of RERA Act, 2016.
- C. Pending Misc. Applications, if any, stand disposed of.
- D. Appeals stand dismissed as withdrawn.


(DR. K. SHIVAJI)


(SHRIRAM. R. JAGTAP)