

Nalawade

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

MISC. APPLICATION NO. 827 OF 2022 (Prod. of Docs.)
WITH
MISC. APPLICATION NO. 289 OF 2023 (Amendment)
IN
APPEAL NO. AT006000000053439

Mr. Dhiren M. Shah ... Appellant

-VS-

Oberoi Constructions Ltd. ... Respondent

MISC. APPLICATION NO. 828 OF 2022 (Prod. of Docs.)
WITH
MISC. APPLICATION NO. 272 OF 2023 (Amendment)
IN
APPEAL NO. AT006000000053441

Champaben H. Galaiya ... Appellant

-VS-

Oberoi Constructions Ltd. ... Respondent

MISC. APPLICATION NO. 829 OF 2022 (Prod. of Docs.)
IN
APPEAL NO. AT006000000053444

Mr. Randeep Singh Randhawa ... Appellant

-VS-

Oberoi Constructions Ltd. ... Respondent

Mr. Ashutosh R. Gole, Advocate for Appellant.

Mr. Abir Patel i/b. Wadia Ghandy & Co., Advocate for Respondent.



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

DATE : 31st JULY, 2023

(THROUGH VIDEO CONFERENCE)

Learned counsel for parties joined the conference.

MISC. APPLICATION NOS. 289/2023 AND 272/2023

Heard learned counsel for parties.

2] By these Misc. Applications, Applicants are seeking to amend the captioned two appeals (i.e., Appeal Nos. AT006000000053439 and AT006000000053441) to substitute the names of Appellants against the names of original Appellants and also for all consequential amendments in both appeals by which, the name of the original Appellants i.e, Mr. Dhiren M. Shah and Champaben H. Galaiya are being replaced by the new Appellants i.e, Radhesh Welling and Hoshi A. Karanjia in the array of Appellants after the proposed amendments.

3] Learned counsel for Appellants/ Applicants further submit that these amendments are absolutely essential in the light of registered agreements for sale dated 13.02.2023 and 29.11.2022.

4] Learned counsel for Non-applicant vehemently opposed by submitting that these re-sale agreements have taken place by Applicants without N.O.C nor with the consent of Respondent/Non-applicant and the



re-sale agreements have not been signed by Respondent/ Non-applicant. Thereby, Applicants have no locus to sue Respondent for the alleged breaches as contended in appeals.

5] Perusal of documents reveals that these agreements for sale have taken place, and these are essential for effective adjudication the disputes involved in these appeals.

6] In view of above, both these two Misc. Applications are allowed without prejudice to the rights and contentions of the parties, by keeping these open to rebut the same on merits.

7] Applicants to carry-out proposed amendments of substitution of these two Applicants within 10 days and file amended copies of the appeal and serve to other side.

8] Liberty to Non-applicant to file additional reply, if any within 10 days thereafter.

9] Misc. Application Nos. ~~289~~/2023 and 272/2023 are disposed of on above terms.

10] No costs.

11] Stand over to 07th September, 2023 for compliance and hearing on Misc. Application Nos. 827/2022, 828/2022 and 829/2022.


(DR. K. SHIVAJI)


(SHRIRAM R. JAGTAP, J.)