

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

**MISC. APPLICATION NO. 741 OF 2022(STAY)
IN**

APPEAL NO. AT006000000093936 OF 2022

Govindarajan Sankaran

... Appellant

-VS-

M/s. Orbit Enterprises

...Respondent

Adv. Mohit Advani for Appellant.

Adv. Vaibhav K. Krishna for Respondent No. 1.

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

DATE : 28th JULY, 2023

(THROUGH VIDEO CONFERENCE)

Adv. Mohit Advani for Appellant and Adv. Vaibhav K. Krishna for Respondent No. 1 joined the conference.

2] Due to constitution of new Bench matter stands de-part heard.

3] Learned Adv. Mohit Advani submits that impugned order directs the Respondents to hand over the possession of subject flats to Appellant. The appellant is ready to deposit the balance consideration. Per contra learned Adv. Vaibhav Krishna submits that after receipt of occupation certificate, the Respondents have offered possession of the said flat, however the Appellant has refused to accept the possession of the subject flat on the ground that he is entitled for set off against the balance consideration and also raised some other issues. Agreement for sale empowers the developer to charge interest if the allottee fails to accept the possession. Therefore, the developer is entitled to interest on

S. Jagtap

the balance amount from the allottee.

4] Considering the controversy between the parties, we are of the view that as the impugned order directs the Respondents to hand over the possession of the subject flat to allottee. Therefore, we are of the view that Appellant cannot seek the same relief in Appeal because the said relief has already been granted to Appellant by the learned authority.

5] Stand over to 26th September, 2023 for final hearing.


(DR. K. SHIVAJI)

ARP


(SHRIRAM. R. JAGTAP, J.)