

Nalawade

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

MISC. APPLICATION NO. 405 OF 2023

(Disclosure of Property)

WITH

MISC. APPLICATION NO. 674 OF 2023 (Arrest Warrant)

WITH

Ex. NO. 04 OF 2023

IN

APPEAL NO. AT006000000053461 OF 2021

Vijay Choksi

... Applicant

-VS-

SSSC Escatics Pvt. Ltd.

... Non-applicant

Mr. Anmol Bartaria, Advocate for Applicant.

None for Non-applicant No.1.

Mr. Abir Patel, Advocate for Non-applicant No.2.

CORAM : SHRI S. S. SHINDE J., CHAIRPERSON &

DR. K. SHIVAJI, MEMBER (A)

DATE : 10th APRIL, 2024

(THROUGH VIDEO CONFERENCE)

Mr. Anmol Bartaria, learned counsel for Applicant and Mr. Abir Patel, learned counsel for Non-applicant No.2 joined the conference and jointly submit that the Second Appeal filed by the Non-applicant No.2 before the Hon'ble Bombay High Court has been dismissed on 26.02.2024, wherein, the Hon'ble Bombay High Court has given directions *inter alia* in para no.25 "para 25. I am therefore of the view that Appellant cannot



escape the liability to refund the amount received towards sale of flat to Respondent No.1".

2] Appellant herein in the Second Appeal is the Non-applicant No.2 in the Execution Application and Respondent No.1 is the Applicant in the Execution Application.

3] Learned counsel for the parties further confirms that the SLP filed by Non-applicant No.2 before the Hon'ble Supreme Court of India has also been dismissed vide order dated 08.04.2024.

4] Advocate Mr. Abir Patel appearing for Non-applicant No.2 submits that, pursuant to the compliance of the direction issued by the Tribunal, the details of the bank accounts and other immovable properties of Non-applicant No.1 have also been filed.

5] Advocate Mr. Abir Patel further submits that, in terms of the equity, more particularly because the entire payments have been received by Non-applicant No.1, Non-applicant No.2 is ready and willing to deposit the 2/3rd of the amount in the Tribunal towards the compliance and satisfaction of the judgment decree dated 18.10.2022 passed by this Tribunal.

6] Advocate Mr. Anmol Bartaria appearing for Applicant vehemently opposed the submissions of Advocate Mr. Abir Patel by submitting that the deposit amount to be made by Non-applicant No.2 be



paid to the Applicant allottee directly in order to avoid any further delay and cited that the decree is of 2022.

7] Perusal of the judgment shows that decree is dated 18.10.2022, wherein Non-applicants have been directed *inter alia* to refund the entire paid amounts.

8] Perusal of the judgments of the Hon'ble Bombay High Court and the Hon'ble Supreme Court in SLP indicate that the Non-applicant No.2 has made similar plea for binding Non-applicant No.1 also towards the satisfaction of the decree. Whereas, the Hon'ble Bombay High Court has specifically rejected the said plea and dismissed the Second Appeal filed by Non-applicant No.2.

9] We have carefully perused the reasons given by the Hon'ble High Court while disposing of the Second Appeal and also the order passed by the Hon'ble Supreme Court, while dismissing the SLP filed by Non-applicant No.2. We are of the considered view that Non-applicant NO.2 have no option but to pay the entire amount. Accordingly, we direct Non-applicant No.2 to pay the entire decretal amount to the present Applicant directly without any further delay.

10] Accordingly, Orders dated 04.08.2023 and 18.03.2024 of this Tribunal stand modified to these extents as herein.

11] Advocate Mr. Anmol Bartaria upon instructions submits that



applicant will not be claiming any rights over the subject flat and will surrender the rights over the subject flat in favor of the Non-applicant No.2 subject to the compliance of the decree and upon payments of entire amounts as per the decree.

12] Advocate Mr. Abir Patel upon instructions prays 10 days' time to satisfy the decree and pay the entire amount as per the decree to the Applicant within 10 days keeping in view of the reasons assigned by the Hon'ble High Court and further observations made by the Hon'ble Supreme Court.

13] Stand over to 23rd April 2024 for compliance.



(DR. K. SHIVAJI)



(S. S. SHINDE, J.)