

Nalawade

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

O. A.- 02 OF 2023

Parshvadhara Complex ABCD Chs.

... Appellant

-VS-

Parshvadhara Developers Pvt. Ltd.

... Respondent

Mr. Nilesh Gala, Advocate for Appellant.

Ms. Padma Chinta, Advocate for Respondents.

CORAM : SHRI SHRIRAM R. JAGTAP, MEMBER (J) &

DR. K. SHIVAJI, MEMBER (A)

DATE : 14th MARCH, 2024

(THROUGH VIDEO CONFERENCE)

ORAL ORDER

Learned counsel for parties joined the conference.

2] Learned counsel for Respondents upon instruction submits that the complaint filed by Appellant has come up for hearing before MahaRERA and the last date of hearing before MahaRERA was 09.01.2024. The matter is further listed for hearing on 10.04.2024. Upon instructions she further submits and reiterates to continue with Respondent's earlier statement given as on March 23, 2023 " *that no further activities of construction would continue from tonight till the next date on the site/place, which is alleged subject matter of Appeal.*" and is willing to maintain status quo as on 23.03.2023 till the disposal of the



captioned complaint proceeding before MahaRERA.

3] Advocate Ms. Padma Chinta upon instructions further submits that the new construction project under the captioned complaint is not for sale.

4] Advocate Mr. Nilesh Gala submits that the complaint has been filed for many other reliefs including for certain violations by the Respondent Nos.1 and 2 including unfair trade practices and against undertaking completely new construction and about violations of the provisions of the Act of 2016.

5] Perused.

6] Appeal has been filed against roznama dated 23.01.2023. Perusal of the record more particularly impugned order roznama dated 23.03.2023 reveals that it is only an interim order basically rejecting the prayers of the Appellant for urgent hearing, which has been denied by holding *inter alia* that *"this complaint is filed in the Month of April 2022. Therefore, the MahaRERA sees no reasons for urgency and the project is also completed, although the form 4 and occupation certificate is not uploaded on MahaRERA website. The present request for urgent hearing stands rejected in view of the above. Present request for urgent hearing stands rejected in view of the above. However, the Respondent may file his reply to the complaint as well as aforesaid issues raised by the complainant. List the matter for next date strictly as per the seniority."*



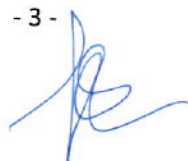
8] The impugned order is only an interim order, without going into the merits of the matter. The request of the Appellant for urgent hearing has been denied and therefore the present appeal has been filed *inter aila* for certain reliefs.

9] In view of the above and because, now the compliant proceeding has already started taking place before the MahaRERA, wherein the final decision/s on merits and on the core issues of the matter are yet to be passed by MahaRERA. Therefore, in view of the settled position of law, it will be only just and proper that the entire matter be heard and adjudicated by the MahaRERA first on the complaint filed by the appellant. This will also make available this forum of the benefit of the wisdom of the MahaRERA in the complaint.

10] In view of the peculiar facts and circumstances of the case more particularly because the learned counsel appearing for Respondent Nos.1 and 2 upon instructions has already given statement earlier for continuation of the interim relief till the disposal of the complaint by MahaRERA, we are of the considered view that now the appeal filed herein be disposed of on above terms. Accordingly, we proceed to pass the order as follows: -

ORDER

- (a) The captioned Appeal No. O.A-02 of 2023 in Complaint No.CC 006 000000220890 stands disposed of on above terms for disposal of



the captioned complaint by MahaRERA.

- (b) The statement of the Respondents, as recorded herein above as on 23.03.2023 will continue till the disposal of the complaint in the complaint proceeding before MahaRERA is accepted and taken on record and Respondents to comply with the statement given herein till the disposal of the captioned complaint pending before MahaRERA.
- (c) MahaRERA is further directed to dispose of the complaint in accordance with the law as expeditiously as possible.
- (d) All the rights and contentions of the parties are kept open and to be decided in accordance with the law by MahaRERA.
- (e) The appeal stands disposed of on above terms.
- (f) ^{Matter R} Matter is already listed before MahaRERA on 10.04.2024.
- (g) In view of the disposal of the appeal, pending Misc. Application will not survive. Hence, stand disposed of.
- (h) No order as to costs.
- (i) In view of the provisions of Section 44(4) of the Act of 2016, copy of this order be sent to the parties and MahaRERA.


(DR. K. SHIVAJI)


(SHRIRAM. R. JAGTAP, J.)