

**BEFORE MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL MUMBAI**

**11] M.A. No. 545/22
(Appointment of Architech as Court Commissioner)
with
M.A. No. 546/22 (Prod. of Dcts.)
in
Appeal No. U-9/2021**

Prasad A. Sathe

... Appellant

V/s.

Ravindra Kshirsagar

...Respondent

Adv. Mr. Prashant Maindargi for Appellant

Adv. Mr. Avinash Fatangare for Respondent

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

DATE : 22th February, 2024

(THROUGH VIDEO CONFERENCE)

In M.A. 545 of 2022

1. The appellant has prayed to appoint architect as commissioner to have a legal investigation for the purpose of elucidating matter in dispute that is whether the project is completed in all respect or not.
2. The respondent has filed reply to this application.
3. We have heard learned learned counsel for respective parties.
4. According to appellant the subject project was not completed on the date of commencement of RERA Act, 2016, therefore, architect is required to be appointed as court commissioner. Per contra according to respondent has completed the project and therefore, there is no point in appointing architect as commissioner to inspect the suit project.

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5. After considering the rival submissions of the parties, we are of the view that there is no point in appointing architect as court commissioner for the purpose of elucidating the matter in issue. The material produced on record is sufficient to determine whether project was complete on the date of commencement of the RERA Act, 2016 or not. Apart from this, it is for the appellant to produce sufficient material on record to show that whether project was complete on the date of commencement of RERA Act, 2016 or not. Considering the rival submissions of the parties, we are of the view that the application at this stage is devoid on merit and thus, it is liable to be rejected.
6. Consequently, we proceed to pass following order.

ORDER

M.A. no. 545 of 2022 for appointment of architect as court commissioner stands rejected.

In M.A. No. 546 of 2022

1. Record reveals that M.A. No. 546 of 2022, filed by the appellant for production of the document is pending for consideration. It further transpires that the respondent has filed reply to this application. On consideration of averments made in the application and reply of respondent, it is seen that the document which is sought to be produced on record will help the Tribunal in determining the controversy between the parties. Apart from this, this document was not in the custody of the appellant and therefore, he was not able to produce the same before the Ld. Authority. Besides the respondent will have an opportunity to rebut the contentions of the appellant with regard to the document. Therefore, we are of the

view that there is no impediment in allowing the production of documents. Apart from this, the admissibility and relevancy of the document can be tested at the time of final hearing. The contentions of the parties are kept open with regard to the documents. Therefore, for the foregoing reasons the Misc. Application no. 546 of 2022 for production of documents is allowed.

IN Appeal no. U-9/2021

1. Adv. Sandesh Kate seeks adjournment on the ground that arguing counsel Adv. Avinash Fatangare is busy in Hon'ble High Court.
2. Stand over to 19th April, 2024 for final hearing.


(DR. K. SHIVAJI)

Ajit


(SHRIRAM. R. JAGTAP)