

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

Ex. No. 19/21

IN

APPEAL NO. AT006000000031769/19

Miss Smita B. Kaskar

... Applicant

-VS-

Nirmal Lifestyle Ltd.

... Non-applicant

Mr. Nitin Kaskar, Advocate for Applicant.

Mr. Tushar Kadam, Advocate for Non-applicant.

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

DR. K. SHIVAJI, MEMBER (A)

DATE : 14th SEPTEMBER, 2023

(THROUGH VIDEO CONFERENCE)

ORAL ORDER

Learned counsel for parties joined the conference.

2] Adv. Tushar kadam upon instructions confirms that no further payment has been effected after the issuance of the order dated 30th Aug. 2023 and seeks time for making arrangement of payment of balance amount.

3] Adv. Nitin Kaskar further submits that since payment has not been made at all even after the issuance of order dated 30th Aug. 2023, Applicant has filed a purshis dated 1st Sept. 2023 with prayer to attach *inter-alia* shares, securities mentioned in the purshis and also to freeze the bank accounts, which have been provided in the captioned purshis.

4] Perusal of record clearly reveals that Non-applicant has been seeking time every now and then, despite giving more than sufficient opportunities even after their own commitments by filing of the undertakings, no further payment has taken place even after the issuance of order dated 30th Aug. 2023.

5] Adv. Nitin Kaskar further submits that the purshis supported by the affidavit will be also filed within two days.

6] Adv. Nitin Kaskar further submits that the Non-applicants have filed and deposited demand draft of Rs. 5 crores to NCLT based on the order passed by NCLT. He further seeks two days' time to file relevant order of the NCLT. This reflects that Non-applicants have not complied with judgment order under the execution, despite having sufficient means and prima facie appears to be non-complying intentionally and deliberately.

7] In view of above, we are of the considered view that further coercive actions are imperative for delivery of justice and is essential for compliance of the judgment decree by issuing order for attachment as prayed for in the captioned purshis including for freezing of all the accounts mentioned in para 8-page no. 436 of the purshis.

8] Learned Registrar to take immediate steps to freeze the bank accounts and also to issue the attachment order for shares and securities as mentioned in para-8 of the purshis.



9] It is pertinent to observe that ample opportunities have already been provided to Non-applicants for compliance and also to satisfy the judgment decree. Besides the perusal of the order dated 6th Oct. 2022, it is crystal clear that coercive action u/s 64 of the Real Estate Regulatory Development Act, 2016 against Non-applicant no. 2 and 3 namely Mr. Dharmesh Jain and Mr. Rajiv Jain is essential to meet ends of justice.

10] Accordingly, learned Registrar to issue show-cause notice in appropriate format u/s 64 of the Act, 2016 to both the Non-applicants namely Mr. Dharmesh Jain and Mr. Rajiv Jain with an opportunity for them to reply within two weeks from the date of receipt of this show-cause notice.

11] Stand over to 18th Oct. 2023 for further consideration.


(DR. K. SHIVAJI)

MS/-


(SHRIRAM. R. JAGTAP)