

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

**M.A. No. 122/22 (Urgent Disposal)
WITH
M.A. No. 212/22 (Amendment)
IN
APPEAL NO. AT006000000052856/21**

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Dharmila Gopalan & Ors.

... Respondents

Mr. Abir Patel, Advocate for Appellant.

CA. R. S. Prabhu, Advocate for Respondent nos. 1 and 2.

None for Respondent no. 3.

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

DR. K. SHIVAJI, MEMBER (A)

DATE : 25th OCTOBER, 2023

(THROUGH VIDEO CONFERENCE)

Adv. Abir Patel submits that rejoinder to Misc. Application no. 212/22 has already been filed and served.

- 2) Certain pages, especially the impugned order under challenge is not legible.
- 3) Adv. Abir Patel seeks time to file additional legible copies of the same.
- 4) He further submits that Respondent no. 3 was duly served and affidavit of service along with tangible supporting documents.
- 5) Perused.



- 6) The courier receipt is not on record.
- 7) Appellant to place on record the original courier receipt along with tracking report and also to intimate the next date of hearing to Respondent no. 3 in writing and place the supporting documents on record.
- 8) Appeal has been filed against the order dated 21st Oct. 2020, wherein, the Appellant is the Promoter. Accordingly, appeal cannot be entertained without first having complied with the statutory and mandatory requirements of the proviso to the section 43(5) by pre-depositing the requisite amount as per the impugned order under challenged.
- 9) Heard learned counsel for parties.
- 10) Adv. Abir Patel submits that penalty amount imposed is Rs. 1 crore and the project has already received Occupation Certificate. Accordingly, corresponding amount required for pre deposit towards the compliance of proviso be kept on the minimum level as far as the penalty is concerned.
- 11) CA. R. S. Prabhu vehemently opposed it.
- 12) Perused.
- 13) Appellant is directed to pre-deposit the following amounts to be paid to the Respondents/Allottees as per the impugned order towards



the statutory and mandatory compliance of the proviso to the Section 43(5) of the Act of 2016.

- a) 40% of the penalty amounts as directed in the impugned order.
 - b) The entire amounts excluding the penalty quantum (as it is already covered under 13(a) above) to be paid to the Respondents as per the impugned order.
 - c) Together with the interest at prescribed rate on the amounts as mentioned at para 13 (a) and 13(b) till the date of the pre-deposit to be made in the Tribunal.
- 14) Learned counsel for Appellant seeks 6 weeks' time for pre-depositing the said amount including 40 % penalty amount.
- 15) Considering the quantum of amount and the other submissions of Appellant, the Appellant is directed to pre-deposit the above-mentioned amount in the Tribunal within four weeks from the date of uploading of this order.
- 16) Stand over to 20th Dec. 2023 for compliance of proviso and affidavit of service of Respondent no. 3.


(DR. K. SHIVAJI)


(SHRIRAM. R. JAGTAP)

MS/-