

Nalawade

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL  
MUMBAI**

**MISC. APPLICATION NO. 535 OF 2023**

(withdrawal of amt.)

**IN**

**APPEAL NO. AT006000000052870**

M/s. Sai Enterprises

... Applicant

-VS-

Ms. Madhu Alwani & 2 Ors.

... Non-applicants

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*Mr. Abir Patel, Advocate for Applicant.*

*Mr. Satish Dedhia, Advocate for Non-applicants.*

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

**DR. K. SHIVAJI, MEMBER (A)**

**DATE : 05<sup>th</sup> OCTOBER, 2023**

(THROUGH VIDEO CONFERENCE)

Learned counsel for parties joined the conference.

2] Learned counsel for Applicant submits that by Misc. Application No.535/2023, applicant is seeking to withdraw the amount pre-deposited towards that compliance of the Proviso to Section 43 (5) of the Real Estate (Regulation and Development) Act of 2016, on the ground that the captioned appeal filed earlier in the Tribunal has been disposed of on 17.07.2023 and the matter is restored to the file of the Authority to decide afresh as expeditiously as possible *inter alia* in accordance with the



law.

4] Learned counsel for non-applicants vehemently opposed the application by submitting that despite certain assurances given by the Applicant, the subject flat has apparently been alienated which has caused prejudice to the Non-applicant Nos. 1 and 2.

5] Perused.

6] Captioned appeal has already been disposed of on 17.07.2023, which was filed by Applicant/Promoter and the amount as mentioned in application was deposited in pursuance to the order of this Tribunal dated 26.03.2021 towards the compliance of the Proviso to Section 43 (5) of the Act of 2016. Since the matter has already been disposed of and the impugned order dated 02.11.2020 has been set aside, we are of the considered view that there is no impediment in allowing the pre-deposit amount made towards that compliance of the proviso by Applicant. Accordingly, we proceed to pass the order as follows: -

**ORDER**

- (i) Misc. Application No. 535 of 2023 is allowed.
- (ii) The amount pre-deposited towards the compliance of the Proviso to Section 43(5) of the Real Estate (Regulation and Development) Act of 2016 of ₹ 17,90,056/- along with accrued interest, if any is allowed to be withdrawn by Applicant.



- (iii) Registry to release the amount as and when the request is made.
- (iv) A copy of this will be sent to the parties and the learned Authority as per Section 44(4) of Act of 2016.

  
**(DR. K. SHIVAJI)**

  
**(SHRIRAM. R. JAGTAP, J.)**