

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

**(8) M.A. No. 150/22 (Urgent Disposal)
WITH
M.A. No. 191/22 (Amendment)
IN
APPEAL NO. AT006000000053079/21**

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Ramesh S. Singh

... Respondent

**(9) M.A. No. 133/22 (Urgent Disposal)
WITH
M.A. No. 186/22 (Amendment)
WITH
Review No. 9/22 (Order Dtd. 15.12.2021)
IN
APPEAL NO. AT006000000052641/21**

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Nagma Affan Khan & Ors.

... Respondents

**(10) M.A. No. 184/22 (Amendment)
WITH
Review No .53/22
IN
APPEAL NO. AT006000000053159/21**

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Namita Ostwal & Ors.

... Respondents

**(11) M.A. No. 140/22 (Urgent Disposal)
WITH
M.A. No. 193/22 (Amendment)
IN
APPEAL NO. AT006000000053087/21**

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Rachana Natani & Anr.

... Respondents

**(12) M.A. No. 105/22 (Urgent Disposal)
WITH
M.A. No. 202/22 (Amendment)
IN
APPEAL NO. AT006000000053089/21**

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Satya Natani

... Respondent

**(13) M.A. No. 195/22 (Amendment)
WITH
Review No.14/22
IN
APPEAL NO. AT006000000052851/21**

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Anilkumar Gupta

... Respondent

**(14) Review No. 15/22
IN
APPEAL NO. AT006000000052857/21**

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Dinesh N. Daphale

... Respondent

**(15) Review No. 26/22
IN
APPEAL NO. AT006000000052874/21**

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Dinesh N. Daphale

... Respondent



(16) Review No. 59/22
IN
APPEAL NO. AT006000000052876/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Neha Padwal and Anr.

... Respondents

(17) Review No. 24/22
IN
APPEAL NO. AT006000000052879/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Pushkaraj Guhagarkar

... Respondent

(18) Review No. 30/22
IN
APPEAL NO. AT006000000052881/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Sandeep Jain

... Respondent

(19) Review No.17/22
IN
APPEAL NO. AT006000000052883/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Siddharth Mehra

... Respondent

(20) M.A. No. 198/22 (Amendment)
WITH
Review No. 46/22
IN
APPEAL NO. AT006000000052885/21



CCI Projects Pvt. Ltd.

... Appellant

-VS-

Vaishali Raje

... Respondent

(21) Review No. 20/22

IN

APPEAL NO. AT006000000052886/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Vijaya Bhartia

... Respondent

(22) M.A. No. 175/22 (Amendment)

WITH

Review No. 33/22

IN

APPEAL NO. AT006000000052982/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Yogesh Kulkarni

... Respondent

(23) M.A. No. 207/22 (Amendment)

WITH

Review No. 31/22

IN

APPEAL NO. AT006000000053090/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Sandhya Bahera & Anr.

... Respondents

(24) M.A. No. 170/22 (Amendment)

WITH

Review No. 56/22

IN

APPEAL NO. AT006000000053094/21



CCI Projects Pvt. Ltd.

... Appellant

-VS-

Hemant Kadam

... Respondent

(25) Review No. 47/22

IN

APPEAL NO. AT006000000053102/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Geeta U. Lad & Anr.

... Respondents

(26) Review No. 25/22

IN

APPEAL NO. AT006000000053104/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Prasannakumari Menon

... Respondent

(27) M.A. No. 210/22 (Amendment)

WITH

Review No. 35/22

IN

APPEAL NO. AT006000000053126/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Nahid A. Parkar

... Respondent

(28) M.A. No. 182/22 (Amendment)

WITH

Review No. 36/22

IN

APPEAL NO. AT006000000053127/21



CCI Projects Pvt. Ltd.

... Appellant

-VS-

Nikhil Ashar

... Respondent

(29) Review No. 19/22

IN

APPEAL NO. AT006000000053128/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Prakash Patil

... Respondent

(30) Review No. 51/22

IN

APPEAL NO. AT006000000053134/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Paresh N. Kadam

... Respondent

(31) Review No. 57/22

IN

APPEAL NO. AT006000000053138/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Hemant A. Nawale & Anr.

... Respondents

(32) M.A. No. 201/22 (Amendment)

WITH

Review No. 41/22

IN

APPEAL NO. AT006000000053140/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Siddharth Pati & Anr.

... Respondents



(33) Review No. 16/22

IN

APPEAL NO. AT006000000053141/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Archana P. Jain

... Respondent

(34) M.A. No. 196/22 (Amendment)

WITH

Review No. 42/22

IN

APPEAL NO. AT006000000053142/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Asha Oza & Anr.

... Respondents

(35) M.A. No. 112/22 (Urgent Disposal)

WITH

M.A. No. 189/22 (Amendment)

IN

APPEAL NO. AT006000000053143/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Chetan Bafna

... Respondent

(36) M.A. No. 185/22 (Amendment)

WITH

Review No. 55/22

IN

APPEAL NO. AT006000000053144/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Deepak Kumar Gupta

... Respondent



**(37) M.A. No. 254/22 (Amendment)
WITH
Review No. 58/22
IN**

APPEAL NO. AT006000000053147/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Jagdish Devaediga

... Respondent

**(38) M.A. No. 173/22 (Amendment)
WITH
Review No. 48/22
IN**

APPEAL NO. AT006000000053148/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Dipankar Sanyal & Anr.

... Respondents

**(39) M.A. No. 181/22 (Amendment)
WITH
Review No. 60/22
IN**

APPEAL NO. AT006000000053150/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Parag Bhavsar & Anr.

... Respondents

**(40) Review No. 52/22
IN**

APPEAL NO. AT006000000053151/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Paras B. Patel & Anr.

... Respondents



(41) Review No. 18/22

IN

APPEAL NO. AT006000000053153/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Shakuntala Jain

... Respondent

(42) Review No. 43/22

IN

APPEAL NO. AT006000000053155/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Suhag Desai & Ors.

... Respondents

(43) M.A. No. 197/22 (Amendment)

WITH

Review No. 44/22

IN

APPEAL NO. AT006000000053184/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Vaibhav Adyalkar

... Respondent

(44) M.A. No. 171/22 (Amendment)

WITH

Review No. 21/22

IN

APPEAL NO. AT006000000053376/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Kapil Sharma & Anr.

... Respondents



**(45) M.A. No. 204/22 (Amendment)
WITH
Review No. 22/22
IN**

APPEAL NO. AT006000000053377/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Malati Kelkar

... Respondent

**(46) M.A. No. 203/22 (Amendment)
IN**

APPEAL NO. AT006000000053113/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Adesh Gupta & Anr.

... Respondents

**(47) M.A. No. 381/23 (Dismissal of Appeal)
WITH
M.A. No. 559/23 (Withdrawal of Amt.)
IN**

APPEAL NO. AT006000000052873/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Paresh Bhavsar

... Respondent

**(48) M.A. No. 382/23 (Dismissal of Appeal)
IN**

APPEAL NO. AT006000000053125/21

CCI Projects Pvt. Ltd.

... Appellant

-VS-

Anjum Qazi

... Respondent

Mr. Abir Patel, Advocate for Appellant.

Mr. Avinash Pawar, Advocate for Respondent in sr. no. 11 to 45.

Ms. Pooja Idgar, Advocate for Respondent in sr. no. 47 and 48.

None for Respondent in sr. no. 8 to 10.



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

DATE : 27th OCTOBER, 2023

(THROUGH VIDEO CONFERENCE)

Adv. Pooja Idgar submits that the details of the amounts provided in the consolidated affidavit filed by the Appellant, are not correct in terms of:

- a) The amount deposited is not up to the date of actual date of delivery of possession.
 - b) The actual paid amount in principal is less than actually paid amounts to the Appellant, on which the interest for delayed possession has been calculated.
 - c) This shows only the consolidated figure and not the actual segregated amount for each appeal separately. These details each appeal wise be provided by Appellant.
- 2) Adv. Avinash Pawar submits that there are cases where even after the payment of the full amount, there is delay in delivery of possessions. Accordingly, the interest amounts due to be paid to Allottees as directed in the impugned order needs to be taken up to the actual delivery of possession and not before that.
- 3) Likewise, in sr. no. 42, Allottees have purchased two flats, and the impugned order has been corrected subsequently. However,



inadvertently, errors in the number of flats have crept.

- 4) Adv. Avinash Pawar further submits that the amount deposited in sr. no. 42 is with respect to the amount related to only one flat not for both the flats.
- 5) Adv. Avinash Pawar seeks leave to file and serve the copy of rectified impugned order with respect to sr. no. 42.
- 6) In response, Adv. Abir Patel submits that it is unfair to deposit the amount up to the date of the actual delivery of possession even after offering possessions to Allottees after the receipt of the Occupancy Certificate, because such delay has happened on the part of the Allottees. With respect to the paid amount in principal, he seeks leave to check it and circulate these information with respect to the paid amounts and also for a portion of the amount pre-deposited for each sr. no. and flat wise.
- 7) Leave sought to file and serve the details of these information shortly is granted.
- 8) He further submits that the interest on the tax components will not be required to be pre-deposited.
- 9) Adv. Abir Patel submits that the amount deposited after the offer of possession should not be accounted for the purpose of quantum of pre-deposit towards the compliance of proviso to Section 43(5) of the Act.



10) Perused.

11) The compliance of proviso to the Section 43(5) of the Act is mandatory to '**deposit of the total amount payable to Allottees as per the impugned order.....**' without which the appeals filed cannot be entertained. The impugned orders in the instance cases clearly reveal that the '**Respondents shall pay interest at the rate of 9% per annum on the amount of consideration paid till the date of possession from those date/s and they shall pay the interest at the same rate from the dates of the subsequent payments of the consideration till handing over the possession of the flats to Complainants with completion/occupancy certificate**'.

12) Careful perusal of the impugned orders clearly indicate that the amount paid till the actual delivery of possession by the Allottees to Promoter are to be accounted for the purpose of calculating the pre-deposit amount for compliance of the proviso including the interest till the date of the actual possession.

13) Therefore, the contentions of learned counsel for Promoter are that after offer of possession on receipt of the Occupancy Certificate, interest and the payment amounts should not be accounted, are legally not sustainable, because these issues can be considered on merit appropriately only after the appeals have been



entertained/admitted for which satisfactory compliance of the pre-deposits are prerequisite and *sine qua non*.

- 14) In view of the lack of satisfactory compliance of the proviso as per the impugned order, such contentions raised by learned counsel for Promoter at this stage cannot be entertained. Accordingly, Appellant/Promoter is once again being directed to pre-deposit the correct amount each appeal wise and file and serve in tabular form for each of these appeals.
- 15) Learned counsel for Promoter seeks time to file consolidated details of each appeal for compliance.
- 16) Learned counsel for Promoter further submits that in view of the submissions and consolidated details of compliance already been filed, Misc. Applications for review of the order dated 15th Dec. 2021 in the appeal become infructuous and seeks to withdraw these review applications. Accordingly, these review applications stand disposed of as withdrawn.
- 17) Consolidated details of pre-deposits required for each appeal be served to other side.
- 18) Stand over to 21st Dec. 2023 for compliance of the proviso.


(DR. K. SHIVAJI)


(SHRIRAM. R. JAGTAP)

MS/-