



CNR: KAHC010546922026

NC: 2026:KHC:51586-DB
WP No. 24931 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION NO. 24931 OF 2026 (GM-RES)

BETWEEN:

1. M/S UNISHIRE PROMOTERS PVT. LTD.,
A COMPANY REGISTERED UNDER
THE INDIAN COMPANIES ACT, 1956
AND HAVING ITS ADMINISTRATIVE
OFFICE AT NO.36, UNISHIRE SQUARE,
RAILWAY PARALLEL ROAD,
NEHRU NAGAR,
BENGALURU-560 020.

PRESENTLY AT
NO.42, CASTLE STREET,
ASHOK NAGAR,
BENGALURU-560 025.

REP. BY ITS AUTHORISED SIGNATORY
SRI.PRATIK K MEHTA

2. MR. KIRTI MEHTA
S/O KANTILAL MEHTA
AGED ABOUT 69 YEARS
3. MR.PRATIK K. MEHTA,
S/O MR.KIRTI MEHTA,
AGED ABOUT 43 YEARS
4. MR. VINAY K. MEHTA,
S/O MR.KIRTI K. MEHTA,
AGED ABOUT 38 YEARS,

Digitally signed by
SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA



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PETITIONER NOS.2 TO 4
R/AT NO.36, RAILWAY PARALLEL ROAD,
NEHRU NAGAR,
BANGALORE-560 020.

...PETITIONERS

(BY SRI.G.S.VENKAT SUBBARAO, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REP. BY ITS SECRETARY,
DEPARTMENT OF HOUSING,
GOVT. OF KARNATAKA,
ROOM NO.213, 2ND FLOOR,
VIKASA SOUDHA,
BENGALURU-560 001.
2. KARNATAKA REAL ESTATE
REGULATORY AUTHORITY,
NO.1/14, 2ND FLOOR,
SILVER JUBILEE BLOCK,
UNITY BUILDING,
CSI COMPOUND, 3RD CROSS,
MISSION ROAD,
BENGALURU - 560 027.
3. MR. KRISHNA GURURAJACHARYA PANDURANGI
S/O. MR. GURURAJACHARYA PANDURANGI,
AGED ABOUT 79 YEARS,
R/AT FLAT NO.114, 1ST FLOOR,
SRI KRISHNA SAI ENCLAVE APARTMENTS,
THIGALAPALYA MAIN ROAD,
HOODI, BANGALORE - 560 067.

...RESPONDENTS

(BY SMT. NAVYA SHEKAR, AGA FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA PRAYING TO (a). ISSUE A WRIT IN
THE NATURE OF CERTIORARI QUASHING THE IMPUGNED ORDER
DATED 13.05.2026 IN MISC. APPLICATION (K-REAT) NO.40/2025,



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PASSED BY THE KARNATAKA REAL ESTATE APPELLATE TRIBUNAL, BANGALORE, VIDE ANNEXURE A; (b). GRANT SUCH OTHER RELIEF OR RELIEFS OR DIRECTIONS AS THIS HON'BLE COURT DEEMS FIT TO GRANT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE, INCLUDING COSTS IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL ORDER

(PER: HON'BLE MR. JUSTICE JAYANT BANERJI)

Heard the learned counsel for the petitioners. Learned AGA appears for respondent No.1 who has assisted the Court in the matter.

2. The writ petition is filed seeking to quash the order dated 13.05.2026 in Misc. Application (K-REAT) No.40/2025 passed by the Karnataka Real Estate Appellate Tribunal, Bengaluru.

3. The contention of the learned counsel for the petitioners is that by means of the impugned order, the application filed under Order IX Rule 9 read with Order XLI Rule



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19 and Section 151 of the CPC seeking recall of the order of dismissal dated 23.08.2025 was dismissed. The submission is that a learned single Judge of this Court in Writ Petition No.3115/2026, which was filed against an order dated 15.01.2025 passed by the Appellate Tribunal in FR No.(K-REAT) 162/2023 was dismissed on 23.03.2026 reserving liberty to the petitioners to prosecute the pending appeal. It was clarified in that order that the order would not come in the way of the petitioners seeking appropriate relief before the Tribunal, including reconsideration of the requirement of deposit of the entire amount. He also states that the only relief being sought at this stage by the petitioners is that he should be allowed to contest the matter after making the pre-deposit and be permitted to show his *bona fide*.

4. We have perused the record. It appears from the record that a complaint was filed against the promoter/petitioner seeking refund of an amount of Rs.65,35,357/- along with interest. This complaint was allowed by the RERA Authority on 12.06.2023. A Memorandum of Agreement for sale between the complainant and the promoter



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was entered into on 13.05.2016. The commencement certificate was obtained by the promoter from BBMP on 08.08.2016.

5. Against the order of the RERA Authority, an appeal was filed before the Appellate Tribunal bearing F.R. No.(K-REAT) 162/2023. In that appeal, which was defective, the promoter filed an interlocutory application - I.A. No.2/2024 under Section 151 of the Civil Procedure Code, 1908 (hereinafter referred to as 'the CPC') praying to dispense with deposit of statutory amount payable under the proviso to Section 43(5) of RERA Act. After elaborate consideration of the submissions, relying upon the judgment of the Supreme Court in ***M/s Newtech Promoters and Developers Pvt. Ltd. vs. State of UP and Others***¹, I.A. No.2/2024 was dismissed and the appellant was directed to deposit the entire amount of Rs.65,35,357/- including further interest as payable on the date of filing of the appeal. The appeal also was dismissed for non-compliance of the office objections by an order of 23.08.2025, paragraph Nos.2, 3 and 4 of which read as follows:

¹ (2021) 18 SCC 1



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"2. This appeal was filed on 25.09.2023. The office has raised certain objections including non-deposit of total amount, as contemplated under the proviso to sub-Section (5) of Section-43 of the Real Estate (Regulation and Development) Act, 2016 ('the Act' for short). After several adjournments, on 13.12.2024 the counsel for the appellants filed I.A.No.2 u/s.151 of CPC, to dispense with statutory deposit of penalty/award as provided u/s.43(5) of the RERA. On 15.01.2025 this Tribunal has passed a speaking order and thereby dismissed the said application seeking exemption to deposit the amount and time is granted time till 06.02.2025 to the appellant to comply all office objections as a last chance and adjourned the matter to 13.02.2025.

3. The order dtd.15.01.2025 on I.A.II is self explanatory. The order sheet dtd. 10.9.2024, 16.10.2024, 19.11.2024, 13.12.2024, 15.01.2025, 13.02.2025, 19.03.2025, 16.04.2025, 20.06.2025 and 19.08.2025 reveals that though several opportunities were granted to the appellant, he has not complied the office objections and paid the amount. This appeal is of the year 2023, but the appellant failed to comply the office objections. When the case was called today at 11.00am., there was no representation on behalf of the appellants - promoters. When the matter is again called at 11.44 A.M., learned counsel for the appellant remained absent and there was no representation on behalf of the appellant. The attitude of the appellants depict that they have simply filed the appeal and intended to drag on the matter only to harass the respondent No.2 without



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paying the award amount. Further the appellants have not preferred any appeal against the order dtd. 15.1.2025 passed by this Tribunal and it has reached finality.

4. The provisions of sub-section (5) of Section-44 of the Act, contemplates that an endeavor has to be made by the Tribunal to dispose of the appeals within a period of sixty days. The inaction on the part of the Appellant-Promoter indicates that he is not evincing interest in prosecuting the appeal and no useful purpose will be served in keeping the appeal pending. Hence, the appeal is dismissed for non-compliance of office objections.

In view of dismissal of the main appeal, all pending I.A.s if any, are rejected as they do not survive for consideration. The Registry is directed to comply with the provisions of Section 44(4) of the Act and to return the records, if any, to the RERA."

6. The order rejecting I.A No.2/2024 on 15.01.2025 was challenged by means of a Writ Petition No.3115/2026, which came to be dismissed on 23.03.2026 with the following observation:

"4. The impugned order passed by the RERA Authority is admittedly appealable. The records further disclose that the petitioner has already availed the statutory appellate remedy and the same is pending consideration. Having invoked the appellate jurisdiction, the petitioner cannot be permitted to simultaneously invoke the supervisory jurisdiction of this Court under Article



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227 of the Constitution of India seeking identical relief. Such parallel recourse is impermissible in law.

Accordingly, the writ petition stands dismissed.

Liberty is, however, reserved to the petitioner to prosecute the pending appeal.

It is further clarified that this order shall not come in the way of the petitioner seeking appropriate relief before the Tribunal, including reconsideration of the requirement of deposit of the entire amount."

7. On perusal of the order of 23.03.2026, more specifically paragraph No.4, it appears that a representation was made before the learned single Judge of the Writ Court that the appeal is pending. However, the learned counsel for the petitioners has drawn attention of the Court to paragraph Nos.41 and 42 of the Writ Petition No.3115/2026 that is enclosed as Annexure - U to this petition to contend that the fact of the appeal having been dismissed was brought to the notice of the Court by means of the writ petition. It is further stated that it was also brought to the notice of the Court that after the dismissal of the appeal, a Miscellaneous Petition No.40/2025 seeking restoration of the appeal was filed, which was pending.



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8. It is pertinent to mention here that the Court would advert to the oral submissions pressed by the learned counsel. Simply because certain facts have been written in the writ petition, does not necessarily mean that they were pressed before the Court or pointed out to the Court. As a matter of fact, a reading of the order of the writ Court of the learned Single Judge itself evinces that the stand taken before the learned Single Judge was that the appeal is pending consideration.

9. A Miscellaneous Petition under Order 9 Rule 9 read with Order 41 Rule 9 read with Section 151 of the CPC was filed before the Appellate Tribunal seeking restoration of the appeal in Appeal F.R.No.162/2023 by recalling the order of dismissal passed by the Appellate Tribunal on 23.08.2025.

10. In the reasons given in the impugned order, the Appellate Tribunal has noted as many as six office objections. These office objections were pending ever since the filing of the appeal in 2023. It was noted by the Appellate Tribunal that the application seeking waiver of the pre-deposit was rejected



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affording one further opportunity to the petitioners to make the statutory deposit and comply with other office objections. It was observed that inspite of 10 adjournments the petitioners did not come forward to comply with any of the office objections or to make the statutory deposit. Hence, left with no alternative, the Appellate Tribunal had passed a speaking order on 23.08.2025 dismissing the appeal for non-compliance of office objections. The order of the writ Court dated 23.03.2026 in Writ Petition No.3115/2026 was considered. It was noted that admittedly the petitioners had not challenged the order dismissing the appeal for non-compliance of office objections. The order passed by the Tribunal on 23.08.2025 remained unchallenged and had attained finality. The factum of dismissal of the appeal while the writ petition was being considered on 23.03.2026 was not brought to the notice of the High Court. It was further observed that since the petitioners were not ready to comply with any of the office objections and to make the statutory deposit, the question of recalling the said order and restoring the file did not arise. Therefore, the miscellaneous petition was dismissed.



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11. In view of the facts and circumstances of the present case, and since the petitioners have consistently not demonstrated *bona fides*, we decline to interfere in exercise of jurisdiction under Article 226 of the Constitution of India and dismiss this petition.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

KG
List No.: 1 Sl No.: 3