

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2319 OF 2018

Calyx Estates and Ors.

... Petitioners

V/s.

Mr. Durvesh Ashok Raut & Ors.

... Respondents

Mr. Girish Godbole I/b Nikita Jacob for the Petitioner.

Mr. Ganesh Misal I/b Vishal Kale for the Respondent Nos. 1, 4, 5, 6, 11, 14 and 17.

CORAM : R.D. DHANUKA, J.

DATE : 09th JULY, 2018

P.C.:

. Papers are allowed to be produced at 3.00 p.m.

2 Learned Counsel for the Respondents states that an alternate remedy against the impugned order passed by the Maharashtra Real Estate Regulatory Authority, Mumbai is available to the Petitioner before the Appellate Tribunal, which is now in place. Statement is accepted.

3 In view of the alternate remedy available, the Petitioner is directed to file an appeal within one week from today and to serve the copy thereof upon the Respondent's Advocate within one week from the filing of the Appeal.

4 The learned Counsel for the Respondents states that the Petitioner shall be directed to deposit certain amount as a condition precedent for grant of ad-interim relief.

5 Ad-interim relief granted by this Court on 28.02.2018 to continue for a period of four weeks from today.

6 The Petitioner would be at liberty to seek continuation of ad-interim order granted by this Court before the Appellate Tribunal.

7 The Appellate Tribunal shall consider the said application after hearing the Respondents as well as Petitioner on its own merits.

8 The Petitioner would be at liberty to file application for condonation of delay, if any. If any, such application for condonation of delay is filed, the Appellate Tribunal shall consider the period taken in prosecuting the said petition under Section 14 of the Limitation Act, 1963 while considering the said application for condonation of delay on the ground that Petitioner had proceeded with this Writ Petition in good faith and with due diligence in view of the fact that the Appellate Tribunal was not in place.

9 The Petitioner has also rendered various reasons for filing this Writ Petition belatedly in paragraph 4 of the Writ Petition and the same shall also to be considered by the Appellate Tribunal while considering the application for condonation of delay. The learned Counsel for the Respondents states that insofar as application for condonation of delay is concerned, the Respondents will not oppose the delay in prosecuting this Writ Petition by the Petitioner in view of Section 14 of the Limitation Act. Statement is accepted.

10 Writ Petition is disposed of in aforesaid terms. It is made clear that this

Court has not expressed any view on the merits of the matter.

11 All contentions on merits are kept open.

(R.D. DHANUKA, J.)