

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 1925 OF 2018****Rahul Rajendra Singh & Anr.****..... Petitioners****VERSUS****M/s.Hubtown Ltd.****..... Respondent**

Ms.Prabha U.Badadare for the Petitioners.

Mr.Ashish Kamat, a/w. Ms.Pallavi Nimkar, i/b. AAK Legal for the Respondent.

CORAM : R.D. DHANUKA, J.**DATE : 24th APRIL, 2018****P.C.**

Mr.Kamat, learned counsel for the respondent raises an issue of maintainability of this petition on the ground that under section 40 of the Maharashtra Real Estate Regulation Act, an alternate remedy exist against the impugned order.

2. Learned counsel for the petitioner on the other hand submits that when this writ petition was filed, at that time the tribunal which is the appellate authority was not in place. It is not in dispute that the said appellate authority is now in place.

3. Learned counsel for the petitioner seeks liberty to withdraw this petition with liberty to file an appeal before the Tribunal under section 40 of the said Act. Since the petitioner was prosecuting this writ petition in good faith and due diligence and in view of the fact that the tribunal was not in place, if any application is filed by the applicant for

condonation of delay or for availing of benefit under section 14 of the Limitation Act, 1963, the appellate authority shall consider the said application for condonation of delay or for availing of section 14 of the Limitation Act and shall allow the said application and shall hear the matter on its own merits. It is made clear that this court has not expressed any views on the merit of the matter.

4. All contentions of both the parties are kept open.
5. Writ petition is disposed of in the aforesaid terms. No order as to costs.
6. Learned counsel appearing for the petitioner states that her client would file an appeal before the appropriate authority within two weeks under section 40 within two weeks from today. Statement is accepted.

[R.D. DHANUKA, J.]