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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 438 of 2019

{Arising out of order dated 02.08.2019 passed by the learned Single Judge in Writ Petition (C) No. 2667 of 2019}

- M/s Bricks and Blocks, Through Ankit Khandelwal (wrongly mentioned in impugned order as Ashok Khandelwal), S/o Rajendra Kumar Khandelwal, aged about 32 years, R/o Behind Dr. Somnath Sahu Building, Punjab Oil Mill Gali, Ramsagar Para, Raipur, District Raipur (C.G.)

---- Appellant

Versus

1. Chhattisgarh Real Estate Regularity Authorities (RERA), Shashtri Chowk, Raipur, District Raipur (C.G.)

2. Smt. Varsh Panjwani, wife of Jai Kishan Panjwani, R/o. E-201, Ashoka Heights, Mova, Raipur, District Raipur (C.G.)

3. M/s. Brand Creation Private Limited, Through Ashok Santwani, R/o. Laheja Sadan, Civil Lines, Raipur, District Raipur (C.G.)

---- Respondents

with

Writ Petition (C) No. 2667 of 2019

- M/s Bricks and Blocks Through Ankit Khandelwal (wrongly mentioned in impugned order as Ashok Khandelwal), S/o Rajendra Kumar Khandelwal, aged about 32 years, R/o Behind Dr. Somnath Sahu Building, Punjab Oil Mill Gali, Ramsagar Para, Raipur, District Raipur (C.G.)

---- Appellant

Versus

1. Chhattisgarh Real Estate Regularity Authorities (RERA) Shastri Chowk, Raipur, District Raipur (C.G.)

2. Smt. Varsh Panjwani, W/o Jai Kishan Panjwani, R/o E-201, Ashoka Heights, Mova, Raipur, District Raipur (C.G.)

3. M/s Brand Creation Private Limited Through Ashok Santwani, R/o Laheja Sadan, Civil Lines, Raipur, District Raipur (C.G.)

---- Respondents

For Appellant	:	Shri Vipin Tiwari, Advocate.
For Respondent No.2	:	Shri Mayank Chandrakar, Advcoate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board

Per Parth Prateem Sahu, Judge

07.02.2020

1. Writ Petitioner/Appellant challenging the order dated 04.06.2019 passed by the Chhattisgarh Real Estate Regularity Authorities, Raipur (for short, 'RERA') filed writ petition along with an application for grant of interim relief.

2. The learned Single Judge in the writ petition has dismissed the application for grant of interim relief filed by the Appellant/writ Petitioner which made the Petitioner to file the Writ Appeal No. 438 of 2019 before this Court. Upon hearing, we issued interim direction vide order dated 24.10.2019 directing the Appellant to deposit the amount of Rs.11.70 lakhs before RERA as directed by the RERA in its order dated 04.06.2019 for effecting payment to the Respondent. The disbursement of the said amount was stayed.

3. The learned counsel for the Appellant submits that the amount as ordered by the RERA has been deposited in pursuance to the order passed by this Court on 24.10.2019. Looking to the subject matter of the dispute as raised by the learned counsel for the Appellant in his petition, we have relegated the parties for mediation, but the proceedings of mediation has been reported to be failed.

4. On earlier date of hearing *i.e.* 06.02.2020, the learned counsel for Respondent No. 2 submitted that the Appellate Tribunal under the RERA Act has started its functioning and the order under challenge in this writ petition is an appealable

order and therefore, the matter may be sent to the Appellate Authority. The Appellant can be directed to file an appropriate appeal before the Appellate Tribunal as constituted under the RERA Act.

5. The learned counsel for the Appellant submits that as the writ petition has been filed before starting of the functioning of the Appellate Tribunal and therefore, the writ petition may be heard and decided by the Court itself.

6. Looking to the facts and circumstances of the case and the disputes raised by the learned counsel for the parties and also considering that the statutory remedy under provisions of Section 42 of the RERA Act is available of filing of appeal to the Appellant herein. We are not inclined to entertain this writ petition and direct the Appellant to file properly constituted appeal before the Appellate Tribunal under the RERA Act.

7. The Appellant will be at liberty to raise all the grounds which has been raised by him in the writ petition before this Court alongwith other grounds available to him. The Appellant may file an appeal before the Appellate Tribunal within a period of six weeks. If the Appellant/Petitioner file appeal before the Appellate Tribunal within a period of six weeks, then the period of limitation will not come in his way and Appellate Tribunal will oblige to decide the appeal on its merits. It is also directed that the interim order dated 24.10.2019 passed by this Court in Writ Appeal No.438/2019 will remain in force till the final disposal of the appeal by the Tribunal.

8. In view of the above observation, the writ petition as well as writ appeal stand disposed off.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Brijmohan