

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

**SECOND APPEAL (ST) NO. 1464 OF 2020
FOR
INTERIM APPLICATION NO. 1 OF 2020
(FOR CONDONATION OF DELAY)
FOR
INTERIM APPLICATION NO. 2 OF 2020
(FOR STAY)**

Nirman Realtors & Developers Ltd. Appellant

Vs.

Vasant Ramkrishna Dhamale Respondent

Mr. Makarand V. Raut a/w Ms. Hima Khuman for Appellant.
Mr. Vasant R. Dhamale, Respondent-in-person, present.

Coram : NITIN W. SAMBRE, J.

Date : 11th February, 2020

P.C.:

1. Heard.
2. For the reasons stated in the Interim Application No. 1 of 2020, the delay is condoned. The Interim Application stands allowed.
3. This Second Appeal is under Section 58 of Maharashtra Real Estate (Regulation & Development) Act, 2016.

4. The question of law, which agitate by the promotor is :
“Whether the appellate authority was justified in awarding interest @ 10.05% pursuant to Rule no.18 of RERA, when the appellant promoter has refunded the amount from part amount and he was ready and willing to refund the entire amount, which was refused to be accepted by the respondent.
5. I have perused the judgment impugned passed by the appellate authority. Admittedly in 2010, the appellant has accepted consideration of Rs.26,85,012/-, out of which an amount of Rs.20,00,000/- was refunded upto September, 2016.
6. Even if it is presumed that the deal in question was cancelled and fact remains that the appellant has failed to settle the account of the respondent.
7. Apart from above, this Court cannot be oblivious to the fact that the appellant has used the amount, which was deposited by the respondent from 2010 till its date of return. That being so, by award of interest and also direction to refund the balance amount is within the

jurisdiction of the RERA Appellate Tribunal. No question of law is involved.

8. The Second Appeal fails. Dismissed.

9. In view of dismissal of Second Appeal, the Interim Application No. 2 of 2020 for stay does not survive, the same is accordingly disposed of.

(NITIN W. SAMBRE, J.)