

PMB

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

WRIT PETITION NO.2652 OF 2021

Prabha Kannan W/o Dinesh Kannan .. Petitioner

vs.

M/s. Anmol Alliance and ors. .. Respondents

Mr. Rohan H. Barge for the Petitioner.

Mr. Yogendra M. Kanchan I/b. YMK Legal for the Respondent No.1.

Mr. Karan Bhosale I/b. Mr. Manish P. Gitay for Respondent Nos.2
and 3.

CORAM : M.S.KARNIK, J.

DATE : SEPTEMBER 1, 2021

P.C.

Heard learned counsel for the parties.

2. The Petitioner is challenging two orders by way of this Petition. First is an order dated 01.04.2021 adjourning the hearing of the Miscellaneous Application No.25 of 2020 which is made for intervention by the partners of the Respondent No.1 Anmol Alliance, the developer.

3. The other order challenged is dated 06.11.2020 by which the delay of 147 days in filing the Appeal has been condoned by the Maharashtra Real Estate Authority Tribunal (hereinafter referred to as the 'Appellate Tribunal' for short).

4. It is the case of the Petitioner that the present Respondent No.4 since deceased, as a partner of the Respondent No.1-Developer had promised the Petitioner that the amount that was paid by the Petitioner in respect of the project will be refunded. The Interveners who are the other partners submit that they had never authorised the Respondent No.4 to enter into any agreement with the Petitioner or for agreeing to the refund of the amount. Learned counsel for the Respondent No.1 submits that there are dispute between the partners.

5. It is the contention of learned counsel for the Petitioner that service on one of the partner of the partnership firm is good service and therefore, it is not open for the other partners to raise the grievance that the Petitioner is not justified in claiming the refund. The Respondent No.4 is now deceased, in his capacity of a partner, had agreed to refund the amount. Further, it is his contention that even before the Appellate Authority, the application made by the Petitioner under Order VII Rule 11 of the Code of Civil Procedure should be decided first, before the Appellate Authority hears the intervention application.

6. The contentions advanced by learned counsel for the Petitioner are the merits of the matter. It is for the Appellate Tribunal to consider these contentions. The Appellate Authority obviously will consider the objections raised by the Petitioner on its own merits and in accordance with law after hearing all the

concerned.

7. I see no reason to interfere with the order granting an adjournment. Even as regards the order by which the delay of 147 days is condoned, having gone through the impugned order, I find that adequate reasons have been given by the Tribunal while accepting the explanation of the Respondent No.1 as reasonable and satisfactory.

8. No interference therefore is warranted in the impugned orders. All contentions are kept open.

9. The Appellate Tribunal is requested to decide the applications at the earliest and expeditiously.

10. The Petitioner and the Respondent No.1 to try and resolve the matter amicably and learned counsel assures that every possible effort will be made to settle the matter. This is without prejudice to the rights and contentions of the parties.

11. The Writ Petition is disposed of.

Digitally
signed by
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MAKARAND
BHOGALE
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(M.S.KARNIK, J.)