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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4242 OF 2021**

Vinay Agrawal ...Petitioner
Versus
Maharashtra Real Estate Appellate Tribunal & ...Respondents
Ors

Ms Ritika Agarwal, i/b ACE Legal, for the Petitioner.
Mr Saurabh Utangale, for Respondent No.5.
Mr Mandar Soman, for Respondent No.7.

**CORAM G.S. Patel &
Madhav J. Jamdar, JJ.**
DATED: 4th March 2022

PC:-

1. Ms Agarwal tenders an Affidavit dated 3rd March 2022 affirmed by the Petitioner, Vinay Agrawal. The Affidavit confirms that the only prayers pressed are prayer clauses (a), (c)(i) and (d) and the others are not pressed. Paragraph 3 further states that the Petitioner is agreeable and willing to make a pre-deposit as required by Section 43(5) of the RERA Act, i.e. 100% of the interest awarded by the MahaRERA Authority, as a pre-condition to admission of the Petitioner's Appeals against impugned order dated 22nd December 2020 in the cases of present Respondents Nos.4, 5, 6 and 7. The statement is noted and accepted as an undertaking to the Court.

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2. The consequences of non-deposit are two. *First*, that the RERA appeals will fail for non-compliance. *Second*, Petitioner will not be entitled to challenge that requirement of pre-deposit once again before this or any other Court.

3. In paragraph 4, the Affidavit states that the dispute with Respondent No.8 has been settled and that there is an order of MahaRERA to that effect annexed as Annexure “I”.

4. As regards Respondent No.9, the Real Estate Appellate Tribunal passed a detailed order on 26th November 2021. The Petitioner has already complied with that order and made the necessary pre-deposits under Section 43(5) of the Act. A copy of the compliance report is annexed.

5. We accept all these statements.

6. In view of this, prayer clause (a) to reduce the amount of a pre-deposit will not survive. Prayer clause (c)(i) and (d) require, respectively, a withdrawal of the impugned orders dismissing the Petitioner’s Appeals and directing the 1st Respondent to pass speaking order under Section 43(5). We do not make the Petition unconditionally absolute in terms of prayer clause (c)(i) and (d) but direct that upon the Petitioner making the deposit in terms of the undertaking given to this Court, the order of 27th July 2021 will stand set aside. The pending Appeals (except those regarding Respondents Nos. 8 and 9) will stand restored to file and the 1st Respondent will then proceed to decide those on merits.

uninfluenced by any observations or directions in the present order.
All contentions on both sides are left open.

7. It goes without saying that in default of the Petitioner making a pre-deposit, the pending Appeals in which there is no final order will stand dismissed as indicated above.

8. The Petition is disposed of in these terms with no order as to costs.

(Madhav J. Jamdar, J)

(G. S. Patel, J)