

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5453 OF 2021

Seema Sureshchandra Mehata & Anr. ... **Petitioners**

Versus

The State of Maharashtra & Ors. ... **Respondents**

WITH

INTERIM APPLICATION NO. 832 OF 2022

IN

WRIT PETITION NO. 5453 OF 2021

M/s. Marvel Realtors and Developers Ltd. ... **Applicant**

In the Matter Between :

Seema Sureshchandra Mehata & Anr. ... **Petitioners**

Versus

The State of Maharashtra & Ors. ... **Respondents**

Mr. Amogh Singh a/w. Mr. Kaustubh Patil a/w. Ms. Yashvi Panchal i/b. P.D.Gandhy & Associates, Advocate for the Petitioners.

Mr. Amit A. Gharte, Advocate for the Applicant in IA/832/2022 and for the Respondent No.3 in WP/5453/2021.

Mr. V. M. Mali, AGP for the Respondent Nos.1 and 7/State.

Mr. A. K. Saxena, Advocate for the Respondent No.2/Maha RERA.

**CORAM: S.V. GANGAPURWALA &
MADHAV J. JAMDAR,JJ.**

DATED : JUNE 8, 2022

P.C.

1. The petitioners are armed with orders of the

Adjudicating Authority i.e. Maharashtra Real Estate Regulatory Authority (hereinafter referred to as, “**Maha RERA**”) against the present respondent Nos.3 and 4. The learned Counsel for the petitioners strenuously contends that though the order is passed in favour of the petitioners long back, directing the delivery of possession and payment of interest, the respondent Nos.3 and 4 are not complying the order. The petitioners have moved Maha Rera invoking its jurisdiction under Sub-Section (2) of Section 40 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as, “**RERA**”) read with Rule 4 of the Manner of Filing of the Complaint to the Authority of the Maharashtra Real Estate Regulation & Development (Recovery of Interest, Penalty, Compensation, Fine Payable, Forms of Complaints, Appeal etc.) Rules, 2017 (hereinafter referred to as “**Maha RERA Rules, 2017**”). The Adjudicating Authority has transferred the said proceedings to the Civil Court for execution. The Adjudicating Authority ought to have executed the order.

2. The learned Counsel for the respondent Nos.3 and 4 submits that the petitioners can file execution proceedings before the Court as required under the Statute and the Rules.

3. It appears that the Maha RERA has already transferred the execution proceedings to the Civil Court at Pune as contended by the petitioners. In that event, the Adjudicating Authority has already exercised its power under Sub-Section (2) of Section 40 read with Rules of Maha RERA Rules, 2017. The execution proceeding shall be

disposed of expeditiously considering the fact that the order of Adjudicating Authority in favour of the petitioners is of the year 2019 and the petitioners are waiting for the possession and payment of the interest as per the order of Maha RERA. We hope and trust that the Executing Court shall proceed with the matter for execution expeditiously of course in accordance with law so also if other proceedings are pending the same may be dealt with and disposed of expeditiously.

4. In case the Executing Court does not proceed expeditiously, then liberty to the petitioners to move this Court. The Writ petition is accordingly disposed of. No costs.

5. In view of disposal of writ petition, the interim application also stands disposed of.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J.)

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