

THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.17109 OF 2022

IN

SECOND APPEAL NO.320 OF 2022

Sanvo Resorts Pvt. Ltd.

...Applicant/Appellant

vs.

Mrs. Neha Samir Bagwe & Ors.

...Respondents

....

Mr. Karl Tamboli, a/w. Mr. Malcom Signaporia, i/b Mr. Prasanna Tare,
for the Applicant/Appellant.

Mr. Vijayprakash Yadav, , for the Respondents.

....

CORAM : S.M. MODAK, J.

DATE : 5 AUGUST 2022

P.C. :

Heard learned Advocate for the Appellant and learned
Advocate for the Respondents.

2. Perused the order dated 18 March 2019 passed by
MahaRera. The present Appellant was directed to pay interest from 1
May 2019 till the date of possession. This order was challenged by the
present Appellant but they were not successful and the appeal came to

be dismissed on 3 February 2022. The said order is challenged by way of second appeal.

3. Today, urgent circulation is sought on behalf of the Appellant by way of this interim application. Learned Advocate for the Respondents is present in that interim application. He makes a grievance that copy of interim application is not served to them in time. Yet this Court has not issued a notice before admission in that appeal. Learned Advocate for the Respondents waives notice. Memo of appeal and annexures be supplied to other side. Second appeal be kept on 23 September 2022.

4. By way of this interim application, there is a prayer for staying the execution of the order dated 8 July 2022 passed by the MahaRera in non-execution application. After hearing both the parties at great length, the Respondents and the present Appellant are directed to comply with the order dated 18 March 2019. The period of 30 days is granted from 8 July 2022, failing which present Appellant was directed to pay penalty of Rs.5,000/- per day. According to the Appellant, the period is going to expire on 8 August 2022.

5. The Appellant contended that the amount of arrears is Rs.7,16,778/-. Out of that amount, they have deposited Rs.2,86,712/- deposited on 15 November 2019 before MahaRera and they are willing to deposit remaining amount on 8 August 2022. The calculation sheet

is submitted to the Court. It is marked as Annexure “X”. The calculation is disputed on behalf of the Respondents and, in fact, it comes to approximately Rs.12 lakhs.

6. In fact, there was no need for the Appellant to file this interim application, particularly when they are depositing the amount within period of 30 days. It is submitted that they be granted two days’ more from 8 August 2022.

7. In view of that, the following order is passed:

- (i) The Appellant is at liberty to deposit the remaining amount out of Rs.7,16,778/- after deducting Rs.2,86,712/- upto 10 August 2022.
- (ii) The grievance about exact amount of arrears taken by the Respondents is kept open and this can be decided by the concerned authorities of MahaRera only.
- (iii) Yet this Court is not aware when actually the amount will be deposited. Hence, the request for staying part of the order imposing penalty cannot be considered now. That is also left open to be decided by the MahaRera Authorities.
- (iv) The interim application is disposed of.

- (v) Request for fixing time limit is not accepted as that issue is not before this Court.

(S.M. MODAK, J.)