

Arjun

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

SECOND APPEAL (ST) NO.13162 OF 2023

Skystar Buildcon Private Limited ...Appellant

V/s.

Chaula Yagnesh Kumar Desai & Anr. ...Respondents

**WITH
INTERIM APPLICATION NO.7823 OF 2023
IN
SECOND APPEAL (ST) NO.13162 OF 2023**

Skystar Buildcon Private Limited ...Applicant

In the matter between :

Skystar Buildcon Private Limited ...Appellant

V/s.

Chaula Yagnesh Kumar Desai & Anr. ...Respondents

**WITH
INTERIM APPLICATION NO.7824 OF 2023
IN
SECOND APPEAL (ST) NO.13162 OF 2023**

Skystar Buildcon Private Limited ...Applicant

In the matter between :

Skystar Buildcon Private Limited ...Appellant

V/s.

Chaula Yagnesh Kumar Desai & Anr. ...Respondents

Digitally
signed by
ARJUN
VITTHAL
KUDHEKAR
Date:
2023.07.27
11:13:34
+0530

Mr. Abhishek Kothari i/b DSK Legal, for the Applicant.

Mr. Tanuj Lodha i/b Lodha & Lodha Advocates, for the Respondent Nos.1 & 2.

CORAM : MADHAV J. JAMDAR, J.

DATED : JULY 25, 2023

P.C.:

1. Second Appeal (St) No.13162 of 2023 is listed on tomorrow's board at Sr. No.127. As the parties have arrived at settlement, the matter is mentioned in the morning session as the Constituted Attorney of the Respondents i.e. father of Respondent No.1 and father-in-law of Respondent No.2 namely Yagneshkumar Desai is not in a position to attend the Court tomorrow and he is a senior citizen of 82 years. Therefore, the matter is taken on board and directed to be listed in production board.

2. Ms. Gayatri Tikale, i.e. Authorized Representative of the Appellant is also present in the Court.

3. Mr. Yagneshkumar Desai and Ms. Gayatri Tikale, who are present in person, state that the dispute between the parties has been settled in terms of the Consent Terms. Both of them tender the Consent Terms executed between the

Appellant and the Respondents. The Consent Terms are signed by Mr. Yagneshkumar Desai in his capacity as the Constituted Attorney of the Respondents as well as Ms. Gayatri Tikale i.e. Authorized Representative of the Appellant-Company.

4. The resolution passed by the Appellant-Company *inter alia* authorizing Ms. Gayatri Tikale to execute the Consent Terms is annexed to the Consent Terms. A copy of Power of Attorney executed by the Respondents in favour of Mr. Yagneshkumar Desai is also annexed to the Consent Terms. Both, Mr. Yagneshkumar Desai and Ms. Gayatri Tikale, present in person, state that the dispute between the parties is settled in terms of the Consent Terms. Accordingly, the Consent Terms are taken on record and marked “X” for identification.

5. Accordingly, in terms of the Consent Terms, the order passed by the Chairperson, MahaRERA in Complaint No.CC0060000000110752 as well as the order dated 3rd October, 2022 passed by the Maharashtra Real Estate Appellate Tribunal, Mumbai in Appeal No.AT006000000052593 of 2020 are quashed and set aside

and the said Complaint is disposed of in terms of the Consent Terms. Mr. Yagneshkumar Desai i.e. the Constituted Attorney of the Respondents who is present in person confirms that Demand Draft dated 20th July, 2023 for an amount of Rs.18,00,000/- has been handed over to him by the Appellant-Company.

6. Mr. Gayatri Tikale, Authorized Representative of the Appellant who is present in person states that the TDS certificate mentioned in paragraph 2(a) of the Consent Terms will be handed over to the Respondents or to their Constituted Attorney on or before 31st December, 2023. The said statement is accepted as undertakings given to this Court.

7. Accordingly, the Second Appeal is disposed of in above terms with no order as to costs.

8. In view of disposal of the Second Appeal, nothing survive in the Interim Applications and the same are also disposed of.

[MADHAV J. JAMDAR, J.]