

PVR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1022 OF 2024

Riverdale Suites Residents Association

... Petitioner

Versus

Maharashtra Real Estate Regulatory Authority & Ors. ... Respondents

Mr. Advait M. Sethna with Sandeep Raman with Rangan Mujumdar with Poushali Roy Choudhary, for the Petitioner.

Mr. Chetan Kapadia, Senior Advocate with Mr. Rajesh Satpalkar & Mr. Prakash Shah i/b. Mulla & Mulla & Craigie Blunt & Caroe, for Respondent No.2.

Ms. Shruti D. Vyas, Addl. Govt. Pleader with Ms. P. N. Diwan, AGP for the State.

**CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.**
DATED: 22 JANUARY, 2024

P.C.

1. Not on board taken on board on a praecipe as moved on behalf of the petitioners.

2. We have heard Mr. Sethna, learned Counsel for the petitioner and Mr. Chetan Kapadia, learned Senior Counsel for respondent No.2. Respondent No.3 is stated to be served. Ms. Shruti D. Vyas, learned Additional Government Pleader with Ms. Diwan, learned AGP appear for the State.

3. This petition under Article 226 of the Constitution prays for the following reliefs:

“a. This Hon’ble Court issue a Writ of Mandamus or any other appropriate Writ against the Respondent No.1 thereby directing it to list the Complaint No. CC00S000000172720 on board for Urgent hearing for Interim Reliefs and pass appropriate orders thereafter.

b. This Hon’ble Court be pleased to issue Writ of Mandamus or any other appropriate Writ to direct the Respondent No.1 to hear and dispose of the Complaint in a time bound manner, preferably within 2 months from the date of the Order of this Hon’ble Court.

c. This Hon’ble Court be pleased to Writ of Mandamus or any other appropriate Writ to direct the Respondent No.1 to upload / display the consents of the members of Petitioners, which is submitted by the Respondent No.2 to Respondent No.1, on the website of MahaRERA in project details of ‘Riverdale Grove’.

d. Pending the hearing and final disposal of this Petition, this Hon’ble Court be pleased to maintain status quo ante and / or direct Respondent No.2 to refrain from further construction / handing over the possession of the flat in Riverdale Grove in any manner whatsoever.

e. Ad-interim Reliefs in terms of the above.

f. Costs of this Petition.

g. Any other reliefs as deemed appropriate by this Hon’ble Court in the facts and circumstances of the present case.”

4. From what has been submitted by learned Counsel for the parties, it appears to be not in dispute that the petitioner’s complaint, the details of which are set out in prayer clause (a), is pending before respondent No.1. The contention of the petitioner is that the petitioner is canvassing the interest of 97 flat purchasers who have several complaints against respondent No.2. They

allege some illegalities at the hands of respondent No.2 in undertaking the project. Such allegations are seriously disputed on behalf of respondent No.2 by Mr. Kapadia. Mr.Kapadia's contention is to the effect that whatever has been carried out by respondent No.2 under the project, is in accordance with law and also is subject matter of approval by the RERA authorities.

5. Mr. Sethna has fairly stated that in the complaint filed before the Authorities, there are prayers for interim reliefs. His contention is that the prayers for interim reliefs and/ or ad-interim reliefs which are to be pressed, are required to be urgently heard by respondent no.1 and appropriate orders passed. It is submitted that the next date of hearing as assigned to the proceedings by respondent No.1 is 16 May 2024 and if the proceedings wait till such date, serious and irreparable prejudice would be caused to the petitioner. His submission is that in these circumstances, the petitioner is required to approach this Court for the reliefs as prayed for including interim reliefs.

6. Having heard learned Counsel for the parties and having perused the record, in our opinion, as the proceedings are pending before respondent No.1 as also there are prayers for interim reliefs, it is appropriate that the petitioner pursues the interim application for its prayer for any interim relief before respondent No.1. In our opinion, the prayers of the petitioner for any interim relief as made on the Complaint of the petitioner, needs to be considered by respondent No.1 as expeditiously as possible. We direct the petitioner to

approach respondent No.1 on 24 January 2024 at 11 a.m. In this regard no fresh notice be served on Respondent No.2 as respondent No.2 is already represented before us.

7. The RERA Authority would hear the parties on a suitable date on interim reliefs and pass appropriate interim orders on the proceedings in accordance with law within a period of four weeks from today.

8. All contentions of the parties on the proceedings of the Complaint are expressly kept open.

9. Disposed of in the above terms. No costs.

10. Needless to observe that in the event a reply is to be filed by the respondents, such request may be appropriately considered by respondent No.2 in the light and the nature of the interim reliefs as prayed by the petitioner.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI , J.)