

S.R.JOSHI

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

WRIT PETITION NO. 15503 OF 2022

Ajit Jain & Others

... Petitioner

Versus

State of Maharashtra & Others

... Respondents

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Mr. Aditya Pimple i/b. Ms. Nisha Kaba with Mr. Yaseen AK, Mr. Sean Ma, for the Petitioners.

Ms P. J. Ghavane, AGP for Respondent No.1 - State.

Mr. A. K. Saxena, for Respondent No.2.

Mr. Vishal Kanade with Mr. Shashikant P. Chaudhari, Adv. Snehal Chaudhari, Ms. Usha Chaudhari, Adv. Tanaya Patankar i/b. Maharashtra Law Associates, for Respondent No.3.

Mr. Anand Pai with Mr. Bishwajeet Mukherjee, Humera Syed and Meet Gandhi, for Respondent No.5.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 15th FEBRUARY, 2024

P.C.

We have heard the learned Counsel for the parties.

2 It is not in dispute that the Petitioners have a remedy of an Appeal under Section 44 (5) of the Real Estate (Regulation and Development) Act, 2016, to approach the Appellate Authority in assailing the Order passed by Respondent No.2- Maharashtra Real Estate Regulatory Authority, Mumbai, which is the subject matter of the present proceedings.

3 Considering the contentions as raised on behalf of the Petitioners, in our view, it would be appropriate for the Petitioners to invoke the remedy of an Appeal.

4 We, accordingly dispose of the Petition by passing the following order:-

- (i) Appeal be filed by the Petitioners assailing the Order passed by Respondent No.2 within a period of two months from today. If such an appeal is filed, it be adjudicated on its own merits and without any objection as to limitation as the Petitioners were bona fide pursuing the present proceedings;
- (ii) In the event any Interim Application is filed in the said Appeal, the same be decided as expeditiously as possible, and, in any event, within a period of two months from the date of filing of such an Application;
- (ii-a) Liberty to make a request for expeditious disposal of the appeal;
- (iii) Writ Petition is disposed of on the above terms. No costs.
- (iv) All contentions of the parties are expressly kept open.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)