

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3683 OF 2024**

Abhinav Angirish

.. Petitioner

Versus

Maharashtra Real Estate Regulatory
Authority & Ors.

.. Respondents

Ms.Aparajita K. Jha i/b Rahul Kamerkar, Advocates for
the Petitioner.

**Mr.Rohan Sawant a/w Yash Momaya, Anant
Ratnaparkhi i/b IC Legal**, Advocates for Respondent Nos. 3 to
5.

Ms.S.D.Vyas, Addl. G.P. a/w Ms.Tanaya Goswami, AGP
for Respondent-State.

**CORAM :B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE : AUGUST 08, 2024**

P. C.

1. The above Writ Petition is filed seeking the following
reliefs:-

*“(a) That this Hon’ble Court may be pleased to direct the
Respondent Nos.3 to 5 to cancel the agreement entered into
by them with one Mr.Fateh Bahadur Singh and hand over
the possession of flat no.3202 situated on 32nd floor in C
wing of Tirumala Habitat to the Petitioner;*

- (b) *That this Hon'ble Court in the alternative may be pleased to direct the Respondent Nos.3 to 5 to refund the amount of Rs.50 lakhs received by them from the Petitioner and others cumulatively with 24% interest till the date of payment, from the date on which the Petitioner and others paid the subject Rs.50 lakhs to the Respondent Nos.3 to 5;*
- (c) *That this Hon'ble Court may be pleased to direct the Respondent Nos.3 to 5 to pay damages of Rs.2 Crores to the Petitioner and others. Since the amount of compensation claimed by the Petitioner is based on today's market rate of the similar flat in the said project as well as huge mental torture and agony that the Petitioner and others have undergone due to the fraud played by the Respondent Nos.3 to 5;*
- (d) *That in the alternative this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction, directing the Respondent No.1 to expedite the hearing and adjudication, and decide Complaint Case No.CC006000000197373 within a period of 6 months;"*

2. The learned counsel appearing on behalf of the Petitioner submitted that the Petitioner is only pressing for reliefs in terms of prayer clause (d) reproduced above. She submitted that the aforesaid complaint has been filed by the Petitioner as far back as on 22nd June 2021 and the complaint has not yet been decided. It is for this reason that prayer clause (d) is pressed into service.

3. Mr.Sawant, the learned counsel appearing on behalf of Respondent Nos.3 to 5 firstly submitted that in the above Petition Respondent No.5 has been wrongly joined. He submitted that Transcon Developers Pvt Ltd are not in any way connected to the present dispute, and it is Aap Realtors Limited who is the concerned party. He submitted that in the cause title it is totally incorrect to state that Aap Realtors Pvt Ltd is now known as Transcon Developers Pvt Ltd. He submitted that these two entities are separate entities, though group companies, and Aap Realtors Ltd is very much in existence even today. He secondly submitted that the so called allotment in the present case was not in favour of the Petitioner but was in favour of a entity called M/s.Abchloor Associates Pvt Ltd/Mr.Rahul Wadhwani/Mr.Akhil J. Chaturvedi. He submitted that despite this, the complaint is filed by the present Petitioner and therefore is not maintainable. This is apart from the fact that according to Respondent Nos.3 to 5 the present transaction was never for sale and/or purchase of the Flat but was really a monetary transaction. He lastly submitted that in fact there were reconciliation proceedings held before the RERA Authorities and according to Respondent Nos.3 to 5 there is a binding settlement that has been arrived at between Respondent Nos.3 to 5 and the allottee and the Petitioner. He submitted that if all these contentions are expressly kept

open to be agitated before the RERA Authority, Respondent Nos.3 to 5 have no objection if the hearing of the complaint is expedited.

4. Having heard both the learned counsel, and considering that only prayer clause (d) is pressed into service before us, we dispose of the above Writ Petition by requesting the RERA Authorities to hear and decide the complaint filed by the Petitioner as expeditiously as possible and preferably within 6 months from today.

5. We make it clear that we have not opined on the merits of the matter one way or the other and all issues, including the ones raised and reproduced by us above, shall be decided by the RERA Authorities on its own merits and in accordance with law.

6. The Writ Petition is accordingly disposed of. However, there shall be no order as to costs.

7. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]