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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9770 OF 2024

M/s. Narendra A. Popat (HUF) Thr. Its Karta Mr.
Narendra Popat & Anr. ...Petitioners

Versus

State of Maharashtra Thr. Its Chief Secretary & Ors. ...Respondents

Dr. G. R. Sharma with Mr. Gaurav Sharma with Gulab Yadav and Tanay
Sakharwade, for Petitioners.

Mr. Sachin H. Kankal, AGP for the State / Respondent No.1.

Ms. Swati Sawant, for Respondent Nos.3 to 5.

CORAM: G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.

DATE 10 SEPTEMBER 2024

P.C.

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

2. This petition under Article 226 of the Constitution of India has prayed for the following substantive reliefs:

“(A) This Hon’ble Court may be pleased to issue Writ of Mandamus or direction(s) or Order(s) directing the MahaRERA Authority, Mumbai, to urgently expedite hearing and/or to deal with the Complaint No.CC006000000395566 OF 2023 as also with the Miscellaneous Application therein for urgent Interim Reliefs, pending with the MahaRERA Authority, Mumbai and filed by the Petitioners herein against the Respondent Nos.3 to 5.

B. That this Hon’ble Court may be pleased to stay the effect, operation, implementation and/or execution of the Cancellation Letter dated 08.05.2024 (Exhibit-’K’) issued by the Respondent Nos.3 to 5 to the Petitioners herein and further directing to maintain “status quo” till final hearing and disposal of the said Complaint No.CC006000000395566 of 2023 and also the Miscellaneous Application filed therein pending with the MahaRERA Authority, Mumbai.”

3. Dr. Sharma, learned Counsel for the petitioners has contended that there is some urgency in the proceedings as respondent Nos.3 to 5 although were to put the petitioners in possession of the premises subject matter of allotment letter dated 19 December 2012 (page 40) including the further correspondence between the parties, the respondents have failed to do so. His contention is that in these circumstances, the petitioners had approached respondent No.2 in the proceedings of Complaint No.CC006000000395566 of 2023, however, as neither the said proceedings

are being taken up by MahaRERA as also no orders are being passed on the Interim Application, hence, the petitioners were constrained to file the present petition. He submits that if ad-interim protection is not granted pending the proceedings before respondent No.2, serious prejudice would likely to be caused. Learned Counsel for the petitioners has drawn our attention to the correspondence between the parties.

4. We have perused the record. As the only substantive prayer is that the Court should pass orders expediting the hearing of Complaint Complaint No.CC006000000395566 of 2023 as also that the Miscellaneous Application filed by the petitioner be decided by respondent No.2, we are of the opinion that keeping open all contentions of the parties, it is appropriate that MahaRERA takes up the Interim Application filed by the petitioners and after granting an opportunity of hearing to the parties, pass appropriate orders on the same. All contentions of the parties in that regard are expressly kept open.

5. Considering the peculiar facts and circumstances of the case, we are of the opinion that respondent Nos.3 to 5 shall maintain status quo in regard to the premises subject matter of allotment to the petitioners, till further appropriate orders are passed by MahaRERA Authorities on the Interim Application and/or on the Complaint whichever is earlier.

6. Ordered accordingly.

7. The petition stands disposed of in the aforesaid terms. No costs.
8. In view of disposal of the petition, pending Interim Applications are also disposed of.
9. Parties to act on the authenticated copy of this order.

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI, J.)