

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

WRIT PETITION NO. 10088 OF 2024

M/s. Marvel Landmarks Pvt. Ltd.

Through Its Managing Director

Vishwajeet S. Jhavar

...Petitioner

Versus

The State of Maharashtra Through

Govt. Pleader And Ors.

...Respondents

....

Mr. Amit A. Gharte, for the Petitioner.

Mr. J. P. Patil, A.G.P for the Respondent – State.

....

CORAM : AVINASH G. GHAROTE, J.

DATE : 24th JULY, 2024

P.C.:

1. Heard Mr.Amit Gharte, learned counsel for the petitioner.
2. The petition questions the order dated 17.12.2019 passed by the Adjudicating Officer of the Maharashtra Real Estate Regulatory Authority, Pune (Maha-RERA) Pune, whereby a direction to refund the consideration received under an agreement from the prospective flat purchaser along with interest has been given (Page-37) and so also the issuance of the proclamation in pursuance thereto (Page-39) dated 06.04.2023. It is contended that in view of what has been held by the Hon'ble

Apex Court in *Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP*¹ (Paragraph-86), the power to order refund would be with the Regulatory Authority appointed under Section 20 of the Real Estate (Regulation and Development) Act and not with the Adjudicating Officer under Section 71 of the said Act. It is contended that, in view of this position, the impugned order dated 17.12.2019, would be without jurisdiction and so would be the position in respect of the proclamation which is issued in pursuance thereto.

3. Issue notice for final disposal, returnable on 12.08.2024.
4. Learned A.G.P. waives service of notice upon respondent Nos.1 & 3.
5. The petitioner shall serve the other respondents by all modes permissible in law till returnable date.
6. By way of an ad-interim order the effect and operation of the order dated 17.12.2019 passed by the respondent No.2 and the subsequent proclamation dated 06.04.2023 shall stand stayed till the returnable date.

(AVINASH G. GHAROTE, J.)

¹ AIR Online 2021 SC 1018,