

S.R.JOSHI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1150 OF 2024

CCI Projects Private Limited

... Petitioners

Versus

State of Maharashtra & Others

... Respondents

Mr. Chirag Kamdar with Mr. Abir Patel and Ms. Lavina Bhargava i/b.
M/s. Wadia Ghandy & Co., for the Petitioners.

Ms. Nazia Sheikh, AGP for the Respondent-State.

Mr. Aseem Naphade with Ms. Chitrangada Singh i/b. Clove Legal, for
Respondent No.3.

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CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 4th APRIL, 2024

P.C.

This Petition has been filed under Article 226 of the Constitution of India, assailing the Order dated 28th March, 2023 passed by the learned Chairperson, Maharashtra Real Estate Regulatory Authority, Mumbai, whereby the Review Application filed by the Petitioners has been rejected. We do not intend to go into the merits of the rival contentions, suffice it is to observe that the reasons as set out in paragraph 6 of the impugned order do not at all commend to us. We note the reasons as set out in paragraph 6, which reads thus:-

“ It is also pertinent to note that under the said Act there is no specific provision for filing a review of the final orders passed by the Authority. The provisions provided under the said Act is that of rectification only under section 39. However, the rule 36 of Maharashtra Real Estate Regulatory Authority (General) Regulations, 2017 (hereinafter referred to as the “said rule”) provides for review but the same cannot override the said Act which

does not provide for any kind of review. The review envisaged under this rule will have to remain within the boundaries as laid out in section 39 of the said Act. The Complainant fails to bring out a case that could be given relief under section 39 of the said Act and rule 36 of the said rule.”

2 We find from the aforesaid reasons that the learned Chairperson had no jurisdiction to take a view on the legality of Regulation 36 of the Maharashtra Real Estate Regulatory Authority (General) Regulations, 2017 and test the same on the touchstone of Section 39 of the Real Estate (Regulation and Development) Act, 2016.

3 In our opinion, such findings as rendered by the learned Chairperson can only be rendered by the High Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India or by the Supreme Court. For such reason, the impugned order cannot be sustained. It is, accordingly, set aside. Proceedings of the Review Petition filed by the Petitioner are remanded to the learned Chairperson of MahaRERA, to be taken up and decided afresh on merits and in accordance with law.

4 The learned Chairperson to decide the said proceedings within a period of two weeks from the date this order is presented before him.

5 Needless to observe that parties should co-operate for the early disposal of the Petition.

6 All contentions of the parties in that regard are expressly kept open.

7 Petition is disposed of in the aforesaid terms. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)