

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.266 OF 2025

Rite Developers & Anr. ...Appellants
Versus
Mukesh Rane & Anr. ...Respondents

WITH
INTERIM APPLICATION NO.6614 OF 2025
IN
SECOND APPEAL NO.266 OF 2025

Rite Developers & Anr. ...Applicants
Versus
Mukesh Rane & Anr. ...Respondents

Mr. Aseem Naphade a/w. Mr. Chirag Sarawagi i/b. Mr. Tushar Garodia, for the Appellants/Applicants.
Ms. Nirali Atha i/b. Dua Associates, for the Respondents.

CORAM: MADHAV J. JAMDAR, J.
DATED : 16th JULY 2025

JUDGMENT:

1. This Court has passed the following order on 9th July 2025:

“1. Heard Mr. Naphade, learned Counsel appearing for the Appellants. He states that the following substantial questions of law arises in this Second Appeal:

(a) Whether the Hon'ble Maharashtra Real Estate Appellate Tribunal ought to have heard and considered the Miscellaneous Application on merits rather than dismissing the same on the ground of alleged delay?

(b) Whether the Hon'ble Maharashtra Real Estate Appellate Tribunal ought to have considered that in the facts and circumstances of the present matter, the Appellant could have never filed the Miscellaneous Application within 30 days from the order dated 16th January 2023 seeking restoration of the Appeal as prescribed under the Rules because the cause of action in the above matter arose only after the Hon'ble MAHA RERA had forwarded letters dated 5th April 2023 and 26th June 2023 seeking payment of the penalty amounts from the Appellants?

2. Mr. Naphade, learned Counsel submits that in fact the Appellants and the Respondents both have settled the dispute and the Appeal was filed as MahaRERA authority has sent letters dated 5th April 2023 and 26th June 2023 seeking that penalty amount be paid by the Appellants.

3. Apart from that Mr. Naphade, learned Counsel submits that the action has been taken suo motu by the MahaRERA without there being application of the Respondents.

4. As very narrow question is involved and as the parties have settled the dispute, only modification of the order dated 26th August 2019 passed in Complaint No. CC006000000056322 is required in terms of the settlement, issue notice to the Respondents for final disposal at the admission stage, returnable on 15th July 2025 at 03:00 p.m..

5. Till next date, ad-interim relief in terms of prayer clause (a).”

2. Mr. Naphade, learned Counsel tenders synopsis of relevant dates, which is as follows:

DATE AND EVENTS

Sr. No.	Date	Particulars
1.	2018	Complaint filed by the Respondents against the Appellant before the Hon'ble MahaRERA seeking execution of the Agreement for Sale.
2.	26.08.2019	The Hon'ble MAHA MahaRERA passed an Order directing the Appellants to execute the Agreement of Sale with the Respondents.
3.	28.09.2019	The Appellants filed an Appeal against the said Order dated 26.08.2019
4.	08.11.2019	The Hon'ble Appellate Tribunal passed an directing the Appellants to deposit 50% of the amount as per the Order dated 26 th August 2019 as per Section 43(5).
5.	16.12.2022	During the pendency of the Appeal, the parties settled the matter and executed an Agreement for Sale.
6.	31.12.2022	Thereafter, the Respondents took possession of the said flat pursuant to the Agreement for Sale.
7.	16.01.2023	Order passed by the Hon'ble Appellate Tribunal disposing the Appeal as withdrawn and directing the registry to return to the Appellants the amounts so deposited.
8.	05.04.2023	Letter forwarded by the Hon'ble MahaRERA Authority calling upon the Appellants to pay the Penalty of Rs.5,00,000/- imposed vide

		Order dated 26th August 2019.
9.	05.05.2023	Letter forwarded by the Appellants to Hon'ble MahaRERA clarifying why the Appellants are not liable to pay the Penalty
10.	26.06.2023	Letter forwarded by the Hon'ble MahaRERA Authority stating that the Order dated 26 th August 2019 was not modified or set aside.
11.	28.07.2023	Appellants filed Miscellaneous Application No.470 of 2023 seeking modification of order dated 16th January 2023.
12.	06.10.2023	Demand Notice issued by the Tahsildar Andheri, claiming Rs. 10,00,000/- from the Appellants
13.	24.11.2023	Letter forwarded by Advocates of the Appellants to the Tahsildar stating that they are not liable to pay the penalty amount.
14.		Additional Affidavit filed by the Appellants in the Miscellaneous Application.
15.	18.12.2023	Order passed by the Hon'ble Appellate Tribunal dismissing the Miscellaneous Application No.470 of 2023.
16.	18.01.2024	Hence, the Second Appeal

3. The factual position as set out herein above clearly shows that the parties have arrived at settlement and therefore, the Appeal filed before the learned Appellate Tribunal was withdrawn. Thereafter, MahaRERA authorities issued notice to the Appellant to pay the penalty of Rs.5,00,000/- imposed by order dated 26th August 2019. In view of the aforesaid, the Appellants filed Miscellaneous Application No.469 of 2023 seeking the following reliefs:

“a. That this Hon’ble Tribunal be pleased to pass appropriate Orders and/or directions for restoration of the above Appeal No.AT006000000031817 OF 2019;

b. That this Hon’ble Tribunal be please to pass appropriate Orders and/or directions for modificaiton of the Order dated 16th January 2023 to the extent that the directions contained in the Order dated 26th August 2019 passed by the Hon’ble MAHA RERA i.e. directing the Appellants to pay penalty of Rs.5,00,000/- for contravening Section 13 under Section 61 of RERA be set aside.”

4. Ms. Nirali Atha, learned Cousnel apeparing for the Respondents states that in fact, the parties have settled the dispute and the flat in question has alredy been handed over to the Respondents. She therefore, states that the Respondents have no objection, if the Miscellaneous Application No.469 of 2023 filed before the MahaRERA is allowed in terms of prayer clauses (a) and (b).

5. Accordingly, by consent of parties, the Second Appeal is allowed. The said Miscellaneous Applicaiton No.469 of 2023 filed before the MahaRERA is allowed in terms of prayer clauses (a) and (b).

6. The Second Appeal is disposed of in above terms with no order as to costs.

7. In view of the disposal of the Second Appeal, nothing survives in the Interim Application and the same is also disposed of.

[MADHAV J. JAMDAR, J.]

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