

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

**INTERIM APPLICATION (ST) NO. 6880 OF 2024
IN
WRIT PETITION NO. 894 OF 2024**

Kinjal M Karia ...Applicant
Versus
H. Rishabraj Developers ...Respondent

**WITH
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.10984 OF 2024
IN
WRIT PETITION NO.7618 OF 2022**

Kinjal M. Karia ...Applicant
Versus
H. Rishabraj Developers ...Respondent

Mr. Chirag Kamdar a/w Ms. Nisha Kaba, Mr. Abhijit Singhal, Ms. Shivani Upadhyaya for Applicant.

Mr. Mayur Khandeparkar, Mr. Bishwajeet Mukherjee, Ms. Humera Syed for Petitioners in WP/894/2024 and WP/7618/2022 and for Respondent in IA.

Ms. Jaymala Ostwal, Addl. G.P (Thr. VC) for Respondent No.1 in WP/894/2024.

Mr. A.K. Saxena for Respondent No.8 – MahaRERA.

Mr. A.I. Patel, Addl. G.P. a/w Aditya R. Deolekar, AGP for the State.

Mr. Vishal Kanade a/w Mr. Shashikant Chaudhari, Snehal Chaudhari, Soham Jadhav i/b. Maharashtra Law Associates for Respondent No.7 in WP/7618/2022, for Respondent No.6 in WP/894/2024 and Respondent No.7 in IA/6356/2024.

Ms. Nikita Jacob (Thr. VC) for Respondent No.5 in WP/894/2024.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.
DATED : 5 December 2025**

P.C.:-

1. Heard learned counsel for the parties.

IA/10984/2024

2. Mr Kamdar, learned counsel for the Applicant, states that reliefs in IA/10984/2024 have now become infructuous considering this Court's order dated 16 October 2025. Accordingly, this Interim Application is disposed of.

IA(L)/6880/2024

3. This Interim Application is for dismissing Writ Petition No.894 of 2024 on the ground that the Petitioner has alternate and efficacious remedy.

4. By order dated 16 October 2025, Rule has already been issued in this matter. Mr Khandeparkar, the learned counsel for the Petitioner relies on the order dated 9 September 2025 made in Writ Petition No.1673 of 2025 to submit why Rule was correctly issued in this matter without relegating the Petitioner to avail of the alternate remedy. He points out that in fact an Appeal was instituted by the Petitioner but, on legal advice, the same was withdrawn given the peculiar facts of this case.

5. At this stage, we do not wish to go into this issue. However, we clarify that although we have issued Rule in this Petition, the Applicant will be at liberty to urge that this Rule should be discharged by relegating the Petitioner to avail of the

alternate remedy provided under the statute. All contentions of all parties in this regard can be considered at the final hearing of these Petitions.

6. As it is, by our order on 16 October 2025, we have expedited final hearing of both the Petitions.

7. Mr. Kamdar points out that though an amount of Rs.37 Lakhs has been deposited in this Court, the interest that shall have accrued on this amount has not been deposited. Mr. Khandeparkar states that the amount was in a Current Account and the same draws no interest. Without going into this issue, we think that the Petitioner should make a further deposit of interest @ 6% p.m., which would apply to a normal Savings Account on this amount of Rs. 37 Lakhs, calculated from 21 March 2022 till the date of its deposit, i.e., within four weeks from today. This amount amounts to approximately Rs. 6.66 Lakhs; therefore, we direct the Petitioner to deposit an amount of Rs. 7 Lakhs in this Court within four weeks from today. The Petitioner has used this amount for business purposes.

8. Pursuant to our order of 16 October 2025, the old promoter has filed an affidavit. At least *prima facie*, the affidavit inspires no confidence. Therefore, it will be open to the Petitioners to ascertain whether the old promoter has any assets and to file an affidavit to that effect. The Petitioner is also at liberty to take out an appropriate application for seeking an attachment of these assets, should there be any apprehension that the old promoter might sell, transfer or alienate such assets in the meanwhile.

9. The hearing of these Petitions is already expedited but considering the issues involved we post these matters for final hearing on 13 March 2026 at 3.00 pm subject to overnight part-heard matters.

10. Parties are given liberty to file additional pleadings or complete their pleadings by last week of February 2026. Such pleadings should be exchanged between the parties/their learned counsel.

11. Registry is directed to invest the amount of Rs. 37 Lakhs and the amount of Rs. 7 Lakhs that the Petitioners would now deposit in an appropriate financial institution with a Nationalised Bank in an interest-bearing Fixed Deposit.

12. Further, we clarify that the interim relief granted by our order of 29 June 2022, as modified by our order of 16 October 2025, will apply only to the Petitioners and not to the fifth Respondent, i.e., the old promoter. Therefore, the allottees, who Mr Kamdar now represents, are free to execute the impugned order against the fifth Respondent, as we have not granted any stay of execution.

13. The two interim applications are disposed of in the above terms. No Costs.

14. We grant the parties liberty to apply for final disposal of the main Petition after pleadings are complete.

(Advait M. Sethna, J)

(M.S. Sonak, J.)