

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 263 OF 2025
WITH
INTERIM APPLICATION NO. 15864 OF 2024

Ms. D. G. Lands Developers Private Limited ...Appellant
Versus
Muthyala Venkata Brahama Vara Prasad &
Anr. ...Respondents

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KULKARNI

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Ms. Usha Rahi a/w. Ms. Priyanka Tiwari and Akash Shah, i/b.
Yatharth Legal, for the Appellant/Applicant.
Mr. Vivek Saunke, a/w Mr Manthan Choudhari, for the
Respondents.

CORAM: N. J. JAMADAR, J.
DATED: 27th NOVEMBER, 2025

Oral Order:-

1. Heard the learned Counsel for the appellant.
2. This second appeal is directed against the judgment and order in RERA Appeal No.AT006/52259/20, dated 9th March, 2022, passed by the Real Estate Appellate Tribunal, thereby partly allowing the appeal preferred by the respondents – original complainants against an order dated 13th January, 2020 passed by MahaRERA in Complaint No.CC006000000161373 and directing the appellant Developer to pay a sum of Rs.12,11,082/- along with interest at the rate of State Bank of India's highest Marginal Cost leading rate plus 2%, on the

amounts paid by the allottees from the respective dates of the payment till realization of the entire amount.

3. Before the Appellate Tribunal, the appellant made a submission that, the appellant was willing to refund the amount as indicated in the letter dated 17th July, 2021. The Appellate Tribunal noted that, the allottees had claimed that they had paid a total amount of Rs.12,11,082/- as per the schedule tabulated in paragraph 9 of the impugned judgment. It appeared that the dispute between the parties was with regard to the payment of a sum of Rs.2,67,000/-, which the allottees claimed to have paid in cash to the appellant on 10th February, 2023.

4. The learned Counsel for the appellant submitted that there was no material to substantiate the claim of the allottees that the said amount of Rs.2,67,000/- was paid in cash by the allottees to the appellant. Attention of the Court was invited to the Promissory Note dated 5th February, 2023 under which the allottees claimed to have raised the funds from an acquaintance to pay over the said amount to the appellant. It was submitted that no material was placed on record to substantiate the said claim. A fraud was played on the Authority.

5. It is imperative to note that, the appellant did not appear before Authority. Therefore, the averments in the complaint went uncontroverted. Even before the Appellate Tribunal, the appellant did not make an endeavour to controvert the said fact by producing material or otherwise. Since the claim of the allottees that they had paid the sum of Rs.2,67,000/- in cash after availing the same from an acquaintance, as evidenced by the Promissory Note, went uncontroverted, the Appellate Tribunal committed no error in directing the appellant to pay the said amount.

6. As the appeal is governed by the regime of Section 100 of the Code of Civil Procedure, 1908, no substantial question of law, arises for consideration. Hence, the appeal deserves to be dismissed.

7. The amount deposited by the appellant in terms of the order dated 20th December, 2024 be paid to the respondents on proper identification.

8. Once the appellant pays the balance amount in terms of the impugned order, the allottees shall execute a Cancellation Deed.

9. In the event the said amount is refunded and a Cancellation Deed is executed, the appellant would be entitled to receive the refund of stamp duty, as admissible in law.

10. Subject to the aforesaid direction, the appeal stands dismissed.

11. At this stage, the learned Counsel for the appellant seeks stay to the execution and operation of this order.

12. Since this Court does not find that, any substantial question of law arises for consideration, the oral application for stay stands rejected.

13. In view of disposal of the appeal, IA/15864/2024 also stands disposed.

[N. J. JAMADAR, J.]