

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1954 OF 2022
WITH
INTERIM APPLICATION NO.7793 OF 2024
IN
WRIT PETITION NO.1954 OF 2022
WITH
CIVIL SUO MOTU CONTEMPT PETITION NO.5 OF 2024

Theme Developers Private Limited ... Petitioner
V/s.
The Maharashtra Real Estate Regulatory ... Respondents
Authority and ors.

Mr. Arif Bookwala, *Senior Advocate with Mr. Vikramjit Grehwal and Mr. M. A. Kamdar and Mr. Sunit Pillay i/by M/s Kanga and Company, Advocates for the Petitioner.*
None for the Respondents.

CORAM : SANDEEP V. MARNE, J.

Dated : 26 February, 2025.

P.C. :

1. The petition challenges order dated 25th September, 2019 passed by the Adjudicating Officer, Maha RERA permitting the Complainant to withdraw from the project and directing the Petitioner to pay sum of Rs.5,30,48,625/- of the Complainant together with interest and costs. There is an alternate and efficacious remedy of filing an appeal before the Appellate Tribunal under provisions of Section 44 of the Real Estate

(Regulation and Development) Act, 2016 (**the Act**). In that view of the matter, this Court is not inclined to entertain the present petition.

2. It appears that in pursuance of order passed on 24th May, 2022, the Petitioner has deposited an amount of Rs.3 crores in this Court. Subsequently, by order dated 28th February, 2024, this Court directed the Petitioner to deposit further amount of Rs.2.25 crore. It appears that on account of failure on the part of the Petitioner to comply with the order dated 28th February, 2024, this Court has initiated contempt of Court proceedings against the Petitioner vide order dated 17th April, 2024. After issuance of the contempt notice, it appears that the Petitioner has deposited the balance amount of Rs.2.25 crore in this Court.

3. This is how total amount of Rs.5.25 crore has already been deposited by the Petitioner in this Court. The said amount can be directed to be transferred to the Maha RERA Appellate Tribunal which would constitute compliance with the provisions of proviso to Sub-section 5 of Section 43 of the Act.

4. The Petition is accordingly disposed of by granting liberty to the Petitioner to file appeal under provisions of Section 44 of the Act before the Maha RERA Appellate Tribunal. The Registry shall transfer the entire amount deposited in this Court together with accrued interest to the account of Maha RERA Appellate Tribunal. The time spent in prosecuting the present petition shall be considered for the purpose of condonation of delay in filing appeal before the Appellate Tribunal. The appeal shall be decided on its own merits.

5. Since there is a substantial compliance with the order dated 28th February, 2024 passed by this Court, contempt proceedings initiated against the Petitioner are closed.
6. The Interim Order granted by this Court shall be continued for a period of four weeks in order to enable to the Petitioner to apply before the Appellate Tribunal for stay of the order passed by the Maha RERA.
7. In view of the disposal of the Writ Petition, the Interim Application also stands disposed of.

(SANDEEP V. MARNE, J.)