

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1388 OF 2025

Mr. Chandravadan R. Trivedi
Through Power of Attorney Holder
Dilip Jadhavji Kathrani
Versus
State of Maharashtra and Ors.

...Petitioner

...Respondents

Dr. G.R. Sharma a/w Mr. Tanay Sakharwade for the Petitioner.
Mr. Mayur Khandeparkar a/w Ativ Patel, Viloma Shah, Harshad Vyas i/b. AVP
Partners, for Respondent Nos.3 to 5.
Ms. Sarita Pabhune, AGP for State.

**CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.**

DATE : 5 FEBRUARY 2025

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P.C.:

1. This petition under Article 226 of the Constitution of India is filed
praying for the following reliefs :-

- “A. This Hon'ble Court may be pleased to issue Writ of Mandamus or direction(s) or Order(s) directing the MahaRERA Authority, Mumbai, to urgently expedite hearing and/or to deal with the Complaint No. CC006000000395567 of 2023 also with the as Miscellaneous Application(s) filed therein for urgent Interim Reliefs, pending with the MahaRERA Authority, Mumbai and filed by the Petitioner herein against the Respondent Nos. 3 to 5.
- B. That this Hon'ble Court may be pleased to stay the effect, operation, implementation and/or execution of the Cancellation Letter dated 08.05.2024 (Exhibit - I') and Cancellation of Compensation Letter dated 09.09.2024 (Exhibit - 'N') issued by the Respondent Nos. 3 to 5 to the Petitioner herein and further directing not to act upon the said Cancellation Letter dated 08.05.2024 and Cancellation of Compensation Letter dated 09.09.2024 by maintaining "status quo" till final hearing and disposal of the said Complaint No. CC006000000395567 of 2023 and also the Miscellaneous

Application(s) filed therein pending with the IT ARO MahaRERA Authority, Mumbai.”

2. We are informed by Mr. Khandeparkar, learned counsel for the respondent no.3 – Developer that the complaint filed by the petitioner before the Real Estate Regulatory Authority, Maharashtra under Section 31 r/w Section 71 of the Real Estate (Regulation and Development) Act, 2016 was listed for hearing before the said authority on 3 February 2025. However, according to Mr. Khandeparkar, the same is now adjourned to 10 February 2025. The petitioner was not represented on 3 February 2025 is Mr. Khandeparkar’s contention.

3. Be that as it may, the grievance of the petitioner is that although the complaint in question is filed before the RERA on 2 May 2023, the same has not proceeded nor the petitioners were granted hearing on the interim prayers as made in the said application. The interim prayers as pointed out to us in paragraph 6 of the application, which read thus :-

“6. Interim Relief -

That this Hon'ble Authority be pleased to prohibit/ restrain the present Respondent no.1 to 3 from selling, transferring, alienating, disposing off, transferring in any other manner or creating any third party rights or interest over the said Office No. 1208 and 1211 on the 12th floor in the proposed building viz "PARINEE-i" situated at 7-A Shah Industrial Estate, Off Veera Desai Road, Andheri West, Mumbai 400053 till the final disposal of the present complaint.”

4. The contention of Dr. Sharma, learned counsel for the petitioner is

that the proceedings were required to be taken up and heard as almost about two years have passed that the proceedings are filed and at least on interim reliefs, for the reason that respondent no.3 is in the process of creating third party rights in respect of the flat in question.

5. Responding to such contention of Dr. Sharma, Mr. Khandeparkar would submit that already third party rights are created in as much as an allotment letter has been issued in favour of the third party namely K.P. Lifestyle Pvt. Ltd. dated 5 October 2024, a copy of which is placed on record, as also furnished to Dr. Sharma. It is stated that about Rs.60 Lakhs has been paid in respect of both two allotment letters by K.P. Lifestyle Pvt. Ltd. Mr. Khandeparkar has however fairly stated that a registered agreement is yet to be entered into with K. P. Lifestyle Pvt. Ltd.

6. These are all the issues which would concern, the interim prayers which are made in the complaint in question. In the facts and circumstances of the case, we are of the opinion that it would be in the interest of justice that the parties now appear before the MahaRERA on the adjourned date of the proceeding on 10 February 2025 and the parties be heard on the interim prayers and appropriate orders on the proceedings be passed after an opportunity of hearing is granted to respondent no.3 on any reply respondent no.3 may intend to file to the complaint and to the interim prayers.

7. We direct that the MahaRERA shall make an endeavour to pass appropriate ad-interim and interim orders on the complaint as expeditiously as possible and in any event, within a period of four weeks considering the orders passed by the Supreme Court in similar circumstances and in relation to the same project in SLP © Diary No.55386 of 2024 (Parinee Realty Pvt. Ltd. & Ors. vs. M/s. Narendra A. Popat (HUF) and Ors., wherein the Supreme Court issued the following directions: -

- “11. We are inclined to dispose of this petition with a direction to the RERA, Maharashtra to take up the proceedings pending before it between the parties and take an appropriate decision in accordance with law, without fail within a period of four weeks from today. We accordingly issue such directions.
12. We clarify that the order of status-quo passed by the High Court shall operate till appropriate decision is taken by RERA within the time period as stipulated above.
13. The Special Leave Petition is disposed of in the aforesaid terms.”

(emphasis supplied)

8. In the aforesaid circumstances, we are inclined to dispose of this petition in terms of the following order:-

ORDER

- (i) MahaRERA shall take up the proceeding in question pending before it between the parties and pass ad-interim, interim or final order on the same in accordance with law within a period of four weeks from today.

(ii) Till the parties are heard and appropriate orders are passed by the MahaRERA, we direct that the respondent no.3 shall not enter into any final agreement and/or undertake its registration with the third party - K.P. Lifestyle Pvt. Ltd.

(iii) The aforesaid protection is granted only to enable the parties to approach before MahaRERA and raise all such contentions, it is in no manner really expression on the merits of the rival contentions which are expressly kept open.

(vi) Disposed of in the aforesaid terms.

9. At this stage, Mr. Khandeparkar submits that his client is ready and willing to settle the dispute by offering the refund of the entire payment received by respondent nos.3 along with appropriate interest under RERA Act.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]