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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO. 318 OF 2025
WITH
INTERIM APPLICATION NO. 1790 OF 2025
IN
SECOND APPEAL NO. 318 OF 2025**

M/s. S M Infrastructures

.....Appellant

Vs.

Fakhre Alam Shaikh

.....Respondent

Mr. Yogendra Singh a/w Mr. Sonam Singh i/b Ms. Sonam Singh i/b
Ms. Pooja Gaikwad Advocate for the Appellant
Ms. Padma Chinta a/w Mr. Anwar Landge for the respondent

CORAM : GAURI GODSE, J.

DATE : 28th APRIL 2025

ORDER:

1. I am not inclined to entertain the second appeal as there is no question of law involved. Learned counsel for the appellant submits that the appellant would make an attempt to resolve the dispute amicably by allotting some another flat to the respondent, in the event, third party is already put in possession of the flat allotted to the respondent.

2. Learned counsel for the respondent submits that the allotment of

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the respondent's flat and the execution of the alleged agreement in favour of third party is during the pendency of the complaint file by the respondent. She, therefore, submits that subsequent allotment and execution of the agreement was to defeat the respondent's rights pursuant to the allotment letter. Learned counsel for the respondent on instructions submits that only to defeat the respondent's rights, the appellant has executed the agreement in the name of one of the promoters.

3. Learned counsel for the appellant seeks time to take instructions and file an affidavit about third party rights created and whether third party rights are created in favour of one of the promoters.

4. There is no dispute that the appellant has accepted more than 10% of the total consideration without registration of the agreement. The appellant, however, is ready to amicably resolve the dispute. To enable the learned counsel for the appellant to take instructions and give an offer of amicable settlement, list the appeal on 9th May 2025.

5. To be listed under the caption 'For Directions'.

[GAURI GODSE, J.]