IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.570 OF OF 2025

M/s. Samcon Builder ... Appellant
versus
Santosh Chandrakanth Pawar and Anr. … Respondents
WITH
INTERIM APPLICATION NO.12383 OF 2025

Mr. Sandeep S. Salunkhe, for Appellant.
Mr. Manish Gala with Mr. Nilesh Gala, for Respondents.

CORAM: N.J.JAMADAR, J.

DATE : 3 DECEMBER 2025

P.C.

1. Heard the learned Counsel for the parties.

2. This Second Appeal is directed against an order dated 4 September 2025 passed by the Maharashtra Real Estate Appellate Tribunal (the Appellate Tribunal) in Appeal No.594 of 2025, thereby directing the Appellant to deposit an amount of Rs.65,65,163/- by way of pre-deposit in compliance with the proviso to sub-section (5) of Section 43 of the Real Estate (Regulation and Development) Act, 2016 (RERA).

3. The Appellant is a promoter. The Petitioner had agreed to sale Flat bearing No.503 in the project ‘Jyoti Residency’, to the Respondents. An Agreement for Sale came to be executed on 6 April 2018. Possession was agreed to be delivered on 1 January 2020. Alleging delay in delivery of possession of the flat in accordance with the terms of the agreement, the

Respondents filed a complaint before the Maharashtra Real Estate Regulatory Authority (the Authority), By an order dated 30 April 2025, the Authority, inter alia, directed the appellant to pay interest on the total amount paid by the Respondents to the appellant at the rate as prescribed under Rule 18 of the Maharashtra Rest Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real estate Agents, Rate of Interest and Disclosures on Website) Rules, 2017. It was further declared that the Appellant was not entitled to claim the benefit of moratorium in the wake of Covid – 19 Pandemic.

4. Being aggrieved, the Appellant preferred an appeal before the Appellate Tribunal. By the impugned order, the Appellate Tribunal directed the Appellant to deposit an amount of Rs.65,65,163/- towards the compliance of the proviso to sub-section (5) of Section 43 of the RERA.

5. Mr. Salunkhe, learned Counsel for the Appellant, would urge that the Appellate Tribunbal committed a manifest error in directing the Appellant to deposit the amount on an incorrect premise that the entire consideration was paid as of the agreed date of the delivery of possession of the subject flat i.e. 1 January 2020. Inviting attention of the Court to the statement of account, at (page 123 of the application), Mr. Salunkhe submitted that by 1 January 2020 only a sum of Rs.84,24,890/- was paid. Thus, the Authority was clearly in error in directing the promoter to pay interest for the delayed period on the

entire amount of consideration, from 1 January 2020. The Appellate Tribunal also fell in error in computing the amount to be deposited under the provisions of Section 43(5) of the RERA on the same premise.

6. Mr. Gala, learned Counsel for the Respondents, countered the submissions of Mr. Salunkhe. Inviting the attention of the Court to the receipts issued by the promoter, Mr. Gala submitted that in the statement of claim of interest, the interest was computed from the date of payment of the respective amount and not from 1 January 2020, as submitted on behalf of the Appellant.

7. I have perused the statement of account (page 123). Interest has been calculated on the amount from the respective dates of payment. Interest on the entire amount has not been computed from 1 January 2020. Pre-deposit under the proviso to Section 43(5) of RERA, is a condition to entertain the appeal. In the case at hand, the challenge is premised on the computation of interest over some part of consideration from a particular date.

8. The Appeal before this Court is subject to the regime of Section 100 of the Code of Civil Procedure, 1908. The challenge to an order of pre-deposit premised on a factual error as to computation of the amount, ordinarily, does not present a question of law, much less a substantial question of law. Prima facie, this Court finds that the computation of interest for delayed delivery of possession is from the dates of payment of respective components of the

consideration. Even if the court were to proceed on the premise that there is some factual error in the computation, that would not pose a substantial question of law.

9. Resultantly, the Second Appeal does not deserve to be entertained.

10. The Second Appeal, thus, stands dismissed.

11. In view of the dismissal of the Second Appeal, Interim Application No.12383 of 2025 also stands dismissed.

(N.J.JAMADAR, J.)