

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO. 5478 OF 2024

Luxora Realtors Private Limited ... Petitioner

Versus

The Maharashtra Real Estate Regulatory
Authority, Mumbai & Ors. ... Respondents

Ms. Ankita Roy i/b Khaitan & Co. for the Petitioner

None for the Respondents

***CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.
THURSDAY, 16th JANUARY 2025***

P.C. :

1 Heard learned counsel for the petitioner. None for
the respondents.

2 On 18th December 2024, the following order was
passed :

*“1. By way of the present Writ Petition, the Petitioner
seeks to challenge the order dated 4th December 2024 (the
impugned order) passed by Respondent No.1. According to
the Petitioner, Respondent No.1 has, arbitrarily, and in*

gross violation of the principles of natural justice, closed the hearing of the complaints filed by Respondent Nos.4 to 9 and has reserved the complaints for final orders, without affording any hearing to the Petitioner.

2. Mr. Ardeshir, the learned Senior Counsel appearing on behalf of the Petitioner, submitted that whenever a hearing takes place before Respondent No.1, virtually, not only is prior intimation given, but also a link is sent on the email ID of the concerned parties. He submitted that as an example, for the hearing to be on 28th November 2022, intimation of the same was given to the Petitioner on 10th November 2022 and a link for the virtual was also sent to the registered email ID on 27th November 2024. Similarly, for the hearing on 25th June 2024, the intimation of the hearing was given on 14th June 2024, and the link for the virtual hearing was sent to the registered email ID in the morning of 25th June 2024. For the hearing on 16th September 2024, though no intimation of the hearing was received, the link for the hearing was sent to the registered email ID of the representative of the Petitioner on 6th September 2024.

3. Mr.Ardeshir submitted that at the hearing that took place on 16th September 2024, the matter was thereafter listed for further arguments on 11th December 2024. Despite this, it appears that the matter was advanced to 4th December 2024, when the impugned order was passed. Mr.Ardeshir submitted that in the hearing that took place on 4th December 2024, neither was any notice received by the Petitioner intimating them of the said hearing nor was any link shared with the authorized representative of the Petitioner. It is in these circumstances that Mr.Ardeshir would submit that Respondent No. 1 passing any final

order would clearly be in breach of the principles of natural justice as the Petitioner has not been heard. He, therefore pressed for urgent ad-interim relief in terms of prayer clause (d) of the Writ Petition.

4. *We have heard Mr.Ardeshir for ad-interim reliefs. We have also perused the affidavit dated 18th December 2024, proving service on all the Respondents except Respondent No.2 who is the erstwhile developer, and who never appeared before Respondent No.1. Despite service, none have appeared before us today.*

5. *We have perused the Roznama dated 16th September 2024 as well as that of 4th December 2024 (the impugned order). The Roznama of 16th September 2024 clearly records that the complaints filed by Respondent Nos.4 to 9 would be listed on 11th December 2024 for further hearing. The last two lines of the Roznama dated 16th September 2024 reads thus:-*

“Accordingly, these matters are adjourned to a suitable date after 21-10-2024 for further hearing. List these matters for next hearing on 11-12-2024.”

6. *Despite this, we find that the matters were listed on 4th December 2024. In other words, the matters were preponed. On 4th December 2024, the Roznama records that the matters were kept for final arguments and the Petitioner herein was absent. The Roznama thereafter goes on to set out that the Complainants have refuted the contentions of the Respondents made in its reply and that they are similarly placed allottees, with respect to the fact that the allotments made in favour of the Complainants*

were in the year 2007, 2008 and 2009, just like earlier similarly placed Complainants mentioned earlier in the Roznama. The Roznama of 4th December 2024, thereafter states that the complaints are accordingly reserved for orders, suitably after 18th December 2024, based on the arguments of the Complainants as well as the reply/rejoinder and written submissions filed in the aforesaid complaints. We find considerable force in the contention of the Petitioner that now since the orders we reserved in the complaints filed by the Respondent No. 4 to 9, without hearing any oral argument of the Petitioner, or giving them a chance to file their written submissions, is clearly in breach of the principles of natural justice and requires interference from this Court under Article 226 of the Constitution of India.

7. We find that indeed on 16th September 2024, the matters were listed or directed to be listed on 11th December 2024. In fact, instead of listing them on the given date, the complaints were preponed to 4th December 2024 and kept for final arguments. We find atleast from the record that no intimation of the same was sent to the Petitioner. It is for this reason that the Petitioner was absent before Respondent No.1 on 4th December 2024. On 4th December 2024, the matter was heard by Respondent No.1 and reserved for orders and which may be suitably passed after 18th December 2024.

8. *Prima facie*, we find that this course of action could not have been taken by Respondent No.1. We, therefore, direct that until further orders, Respondent No.1 shall not pass any orders in the complaints filed by Respondent Nos.4 to 9 and which are pending before it. We may hasten to clarify that notwithstanding this order,

Respondent No.1 can always give an opportunity to the Petitioner to appear before it and give them opportunity to make oral arguments and file written submissions, and thereafter pass any order it deems fit. Since none of the Respondents have appeared before us today, this is only an ad-interim order.

9. *We now place the above matter on 15th January 2025 for ad-interim reliefs.*

10. *We put the parties to notice that we may dispose of the above Writ Petition on that date itself, time permitting. A copy of this order shall be served by the learned counsel for the Petitioner on all the Respondents immediately.*

11. *Stand over to 15th January 2025.*

12. *This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.”*

3 Today, learned counsel for the petitioner states that the petitioners were heard on 7th January 2025 and the RERA allowed the petitioner’s application seeking recall of the order dated 4th December 2024. She submits that RERA has posted the matter for consideration on 29th January 2025. She states that

the authorities have not passed any order till date to the prejudice of the petitioner. She states that the petitioners will be heard on 29th January 2025 after which RERA will be passing appropriate orders.

4 In view of the aforesaid, nothing survives for further consideration in this petition. Petition stands disposed of accordingly.

DR. NEELA GOKHALE, J.

REVATI MOHITE DERE, J.