



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.16921 OF 2025**

Ashapura Housing Pvt. Ltd. ... Petitioner
versus
Maharashtra Real Estate Regulatory Authority
and Ors. ... Respondents

Mr. Aman Kacheria with Mr. Rishabh Dhanuka, Ms. Mahima Shah, Mr. Murtuza Bohra i/by Agarwal and Dhanuka Legal, for Petitioner. Mr. S.P.Kamble, AGP for Respondent Nos.2, 3 and 6.

CORAM: N.J.JAMADAR, J.

DATE : 3 FEBRUARY 2026

P.C.

1. Heard the learned Counsel for the parties.
2. A complaint filed by the Respondent No.5, being Complaint No.197050, and 16 other complainants were disposed by the Maharashtra Real Estate Regulatory Authority (MAHARERA) by a common judgment and order dated 16 February 2024, directing, inter alia, the promoter – the Petitioner herein, to pay interest for the delayed possession on the actual amount paid by the complainants towards consideration for the flats to the complainants.
3. On 19 September 2024, the Adjudicating Officer, MAHARERA passed an order in Non-Compliance Application in the said complaints thereby issuing warrant for recovery of dues from the Petitioner. By a further order dated 23 May 2025, the Adjudicating Officer, MAHARERA issued a warrant of attachment.

4. The Petitioner claimed to have sought a review of the orders passed by the Adjudicating Officer dated 19 September 2024 and 23 May 2025. Yet, Respondent No.2 has issued a demand notice on 25 August 2025 calling upon the Petitioner to pay a sum of Rs.24,39,332/- within a period of 10 days. Pursuant thereto, the bank account of the Petitioner has been freezed. Hence, this Petition seeking diverse reliefs.

5. Learned Counsel for the Petitioner would urge that the Petitioner is not aggrieved by the order dated 16 February 2024 passed by the MAHARERA. The Petitioner has raised objection to the manner in which the directions in the said order are being implemented by misconstruing the said order. Therefore, interference is warranted in exercise of writ jurisdiction.

6. Evidently, the Petitioner has invoked the writ jurisdiction to circumvent the statutory remedy. It does not seem that the Petitioner has challenged the order passed by the MAHARERA dated 19 September 2024, before the Appellate Tribunal. Instead, the Petitioner claims to be aggrieved by the recovery warrant issued by the Adjudicating Officer and the consequent attachment warrant and the notices issued by the revenue authorities.

7. Under the provisions of Section 43(5) of the Real Estate (Regulation and Development) Act, 2016, any person aggrieved by any direction or decision or order made by the Authority or by any Adjudicating Officer has a remedy of preferring an appeal before the Appellate Tribunal. The proviso

contains an interdict against entertaining such appeal without pre-deposit of the percentage of the due amount as may be determined by the Appellate Tribunal. Without invoking the remedy of appeal, the Petitioner seems to have filed a review application before the Adjudicating Officer. Asserting that the review application is not heard, the Petitioner is invoking the writ jurisdiction.

8. The Petitioner cannot be permitted to circumvent the statutory remedy by invoking the writ jurisdiction, especially when the right to file an appeal against an order or direction of the Adjudicating Authority is circumscribed by the condition of pre-deposit. Lest, the very object of the statutory scheme, provided under RERA, 2016 would be frustrated.

9. The Writ Petition, therefore, does not deserve to be entertained.

10. The Writ Petition, thus, stands dismissed.

11. It is, however, clarified that the review application may be heard and decided in accordance with law and without being influenced by the aforesaid observations, as expeditiously as possible.

(N.J.JAMADAR, J.)