

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

SECOND APPEAL NO. 77 OF 2026

Sahinder Pritamsingh Khanuja & Ors. ..Appellants
Versus
Jayesh Pramodbhai Thakkar & Anr. ...Respondents

**WITH
INTERIM APPLICATION NO. 998 OF 2026
IN
SECOND APPEAL NO. 77 OF 2026**

Mr. Shakeeb Shaikh, Mr. Aziz Mohd. i/by Mr. Aziz Mohd., for
the Applicant.
Mr. Hrushi Narvekar, a/w Mr. Ayush Khandelwal, Ms.
Namrata Patkar & Ms. Nishtha Maheshwari i/by TRD
Associates, for the Respondent No. 1.
Mr. Vishal Kanade, a/w Ms. Prerna Gandhi, Ms. Priyanka
Dadpe, Mr. Jaideep Ghosalkar & Mr. Anish
Shahapurkar, for the Respondent No. 2.

CORAM: N. J. JAMADAR, J.

DATE : 12th FEBRUARY 2026

Oral Order:

- 1.** Heard the learned Counsel for the Appellants.
- 2.** The challenge in this appeal is to an order dated 16th December, 2025 passed by the Maharashtra Real Estate Appellate Tribunal ("Maha RERA"), whereby after condoning the delay in preferring the appeal against an order passed by the Maha RERA, the appellants have been directed to deposit the amount in terms of the order impugned in the appeal along with interest accrued thereon, towards compliance of the mandate of the proviso to Sub-section (5) of Section 43 of the RERA, 2016 within a period of four weeks thereof.

3. The learned Counsel for the appellants submitted that, the Appellate Tribunal has not delved into the crucial question as to whether, the appellants are the promoters and without providing an opportunity of hearing to the appellants to file an application for waiver of the pre-deposit and to demonstrate that the appellants cannot be fastened with the liability of promoter, the impugned order came to be passed. It was submitted that, it was incumbent upon the Appellate Tribunal to record a prima facie view that, the appellants were promoter before, the appellants could be called upon to make the pre-deposit.

4. To buttress this submission, the learned Counsel for the appellant placed reliance on a judgment of the learned Single Judge of this Court in the case of ***Nagpur Integrated Township Pvt. Ltd. Vs. Maharashtra Real Estate Regulatory Authority, Mumbai & Ors***¹. In the said case, the Appellate Tribunal had directed both the appellants therein to make the pre-deposit in terms of the proviso to Sub-Section (5) of Section 43 of the RERA, 2016. The Appellate Tribunal had not at all examined the question as to whether either or both of the appellants were the promoters.

5. The facts of the case at hand, are quite distinct. The appellants had executed an agreement in the capacity of seller of the subject flat in favour of the Respondent No. 2 - allottee for a consideration of Rs. 42,48,000/- (Rupees Forty Two Forty

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Eight Thousand). Maha RERA has recorded a categorical finding that, the appellants had received the consideration.

6. In the face of the aforesaid material, the reliance placed by Maha RERA on a decision of this Court in the case of ***Wadhwa Group Housing Pvt. Ltd. Vs. Vijay Choksi***², was well founded.

7. The facts of the case at hand are absolutely clear and there is no scope to wriggle out of situation by disputing the capacity of the appellants as promoter.

8. In these circumstances, the Appellate Tribunal was fully justified in declining to entertain a prayer for waiver of the pre-deposit under the proviso to Section 43(5) of the RERA, 2016.

9. Therefore, no question of law, much less, a substantial question of law, arises for consideration.

10. The Second Appeal thus stands dismissed.

11. In view of the disposal of the Second Appeal, the Interim Application also stands dismissed.

[N. J. JAMADAR, J.]