

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 220 OF 2026
WITH
INTERIM APPLICATION NO. 3770 OF 2026

M/s Amit Enterprises Housing Ltd Mr.
Kishor Govind Pate

...Appellant

Versus

Abhishek Shirish Bhise and anr.

...Respondents

Mr. Kaustubh Thipsay, for the Appellant – Applicant.

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CORAM: N. J. JAMADAR, J.
DATED: 10th JUNE, 2026

Oral Order:-

1. Heard the learned Counsel for the appellant.
2. This appeal assails the order passed by the Maharashtra Real Estate Appellate Tribunal on 13th March, 2026, whereby the appeal preferred by the appellant against an order passed by MahaRERA on 28th August, 2025, came to be dismissed.
3. The Appellate Tribunal had initially directed the appellant to deposit the amount in terms of the proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 ("RERA 2016"). On 20th January, 2026 extension of time to make the pre-deposit was sought. In fact, on 11th February, 2026, a statement was made on behalf of the appellant that the amount

of pre-deposit has been deposited in the Registry of the Tribunal. However, on the subsequent date, a submission was sought to be canvassed on behalf of the appellant that it was incorrectly mentioned on 11th February, 2026 that the appellant has already deposited the amount in the Registry.

4. The Appellate Tribunal by an order dated 27th February, 2026, after noting the submissions on behalf of the appellant ruled that, the appellant was bound to deposit the amount as ordered by the MahaRERA in terms of clause (b) of the operative part of that order. The said order dated 27th February, 2026 was challenged before this Court in SA/163/2026.

5. By an order dated 8th April, 2026, this Court dismissed the appeal observing, *inter alia*, as under:

“4. Mr. Thipsay invited the attention of the Court to the order passed by the Authority, especially clause (c) of the operative order, which, *inter alia*, records that the total arrears of interest shall be set off/adjusted against the outstanding amount, if any, to be paid by the respondent towards the cost of the subject flat and the remaining amount shall be paid by the respondent in one installment to the complainant. Clinging to the words, if any, it was submitted that the appellant was not required to make any deposit. It was further submitted that the submission made on behalf of the appellant on 20th January, 2026 before the Appellate Tribunal seeking extension of time to make the deposit, was due to inadvertence and, subsequently, a compliance affidavit was filed on behalf of the appellant indicating that there was no amount due and payable by the appellant.

5. The possession of the apartment was to be delivered to the allottee by December, 2021. The appellant obtained the Occupation Certificate on 22nd August, 2025.

6. The Authority has categorically held that the appellant was required to pay interest under Section 18 of the Real Estate (Regulation and Development) Act, 2016 ("RERA, 2016"). The controversy sought to be raised by the appellant regarding the amount due and payable by the appellant essentially revolves around facts. Thus no substantial question of law arises for consideration. Therefore, the appeal does not deserve to be entertained under the regime of Section 100 of the Code of Civil Procedure, 1908.

7. Second Appeal thus stands dismissed."

6. Mr. Thipsay, who appeared for the appellant in that appeal as well, had submitted before the Court that the order of dismissal of the appeal for non-compliance of the order dated 27th February, 2026, was also assailed by filing another second appeal. The Court had clarified that, the legality and correctness of the order dated 13th March, 2026, which is impugned in this appeal, would be examined.

7. Mr. Thipsay submits that, as of the date of filing of the appeal no amount was due and payable and, therefore, the Appellate Tribunal could not have passed the order directing the deposit of the amount under the proviso to Section 43(5) of the RERA 2016. Attention of the Court was invited to an order dated 11th May, 2026 passed by the Adjudicating Officer No.III, MahaRERA, whereby, after adjusting the amount of interest payable to the allottee towards the balance amount of consideration receivable by the promoter as of 20th April, 2026, the complainants have been directed to deposit a sum of

Rs.3,33,266/- and the promoter has been directed to deliver possession of the subject apartment.

8. The aforesaid submissions canvassed by Mr. Thipsay are required to be appreciated in the light of the fact that the possession of the apartment was agreed to be delivered to the allottee on or before 31st December, 2021. The appellant obtained occupation certificate on 22nd August, 2025. Yet, till date, the possession of the subject apartment has not been delivered to the allottee. The liability to pay interest on the substantial consideration of Rs.53,21,529/- under Section 18 of RERA, 2016, from the agreed date of delivery of possession till the actual delivery of possession of the subject apartment, continues to accrue.

9. In the backdrop of these hard facts, once the appeal preferred by the appellant, assailing the order of pre-deposit dated 27th February, 2026, came to be dismissed, the legality and correctness of the impugned order dated 13th March, 2025, which is essentially in the nature of consequential order, can hardly be questioned. No question of law much less a substantial question of law, arises for consideration. Therefore, this appeal also meets same fate.

10. The second appeal thus stands dismissed.
11. In view of dismissal of the Second Appeal, the interim application also stands disposed.

[N. J. JAMADAR, J.]