HC-KAR
NC: 2026:KHC:60518
WP No. 7035 of 2024
CNR: KAHC010143242024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE B.PRAMOD

WRIT PETITION NO. 7035 OF 2024 (GM-RES)

BETWEEN:

MAXWORTH REALTY INDIA LIMITED
REGISTERED OFFICE AT NO.22/1
RAILWAY PARALLEL ROAD,
NEHRU NAGAR,
BANGALORE - 560020
REPRESENTED BY ITS
CHAIRMAN AND MANAGING DIRECTOR,
SRI. KESAVA K
COMPANY INCORPORATED
UNDER COMPANIES ACT, 1952

...PETITIONER

(BY SRI. NISHAN G K.,ADVOCATE)

AND:

Digitally signed by SHARADAVANI B
Location: HIGH COURT OF KARNATAKA

1. H N GORAKSHANATH
AGED ABOUT 52 YEARS,
SON OF NOT KNOWN,
RESIDING AT NO.29,
ISIRI 3RD FLOOR,
CANARA BANK COLONY,
8TH CROSS, CHANDRALAYOUT,
BENGALURU - 560072.

2. THE SPECIAL TAHSILDHAR,
BANGALORE NORTH TALUK,
KANDHAYA BHAVANA,

K.G.ROAD, BANGALORE - 560 009.

…RESPONDENTS

(BY SRI. RAJU S., ADVOCATE FOR R1;
SRI. MAHANTESH SHETTAR, AGA FOR R2)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ATTACHMENT ORDER DTD 22.01.2024 PASSED BY THE SPECIAL TAHASILDAR, BANGALORE NORTH, BANGALORE BEARING NO. MSC/RERA/CR/18/23-24 (ANNEXURE-C); AND ETC.,

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B.PRAMOD

ORAL ORDER

In the present writ petition, the petitioner has called in question the validity of the attachment order dated 22.01.2024 at Annexure-C, whereby the petitioner has been directed to refund a sum of Rs.52,47,412/- (Rupees Fifty-Two Lakhs Forty-Seven Thousand Four Hundred and Twelve only), being the amount paid by respondent No.1 along with interest, within a period of 60 days from the date of the order, as well as the Order dated 30.01.2023

passed by the Karnataka Real Estate Regulatory Authority at Annexure-A.

2. Heard Sri. Nishan G K. learned advocate for petitioner, Sri. Raju S, learned counsel for respondent No.1 and Sri. Mahantesh Shettar, learned AGA for respondent No.2.

3. Respondent No.1, being aggrieved by the non-completion of the project known as "Max Madhura", developed by the petitioner, filed a complaint under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (for short, 'the RERA Act') before the Karnataka Real Estate Regulatory Authority (for short, 'RERA'), which was registered as Complaint No.CMP/200802/0006292. Upon consideration of the complaint and adjudication of the dispute, RERA allowed the said complaint by order dated 30.01.2023 at Annexure-A.

4. In the said circumstances, as the petitioner failed to comply with the order dated 30.01.2023 passed by the Karnataka Real Estate Regulatory Authority (for short, 'the Authority') in Complaint No.CMP/200802/0006292 at Annexure-A, respondent No.1 initiated proceedings for recovery of the amount pursuant to the said order. Accordingly, notices were issued to the petitioner calling upon the petitioner to refund the amount. Despite issuance of the notices, the petitioner failed to refund the amount. Consequently, respondent No.2 passed the attachment order (Japti Hukum) dated 22.01.2024 at Annexure-C for recovery of a sum of Rs.52,47,412/- (Rupees Fifty-Two Lakhs Forty-Seven Thousand Four Hundred and Twelve only). Aggrieved by the attachment order dated 22.01.2024 at Annexure-C as well as the final order dated 30.01.2023 passed by the Authority at Annexure-A, the petitioner has preferred the present writ petition.

5. Learned counsel appearing for the petitioner submits that the petitioner could not complete the project on account of the acquisition proceedings undertaken by the Greater Bengaluru Authority (the then Bengaluru Development Authority) in respect of Dr. Shivarama Karanth Layout. In support of the said submission, learned counsel places reliance on Clause 5.2.

5.1 Learned counsel further seeks liberty to avail of the statutory remedy of appeal before the competent Appellate Tribunal by challenging the order dated 30.01.2023 passed by the Karnataka Real Estate Regulatory Authority at Annexure-A.

5.2 It is further submitted that, for availing of the said statutory remedy, the petitioner is required to make a pre-deposit of 30% of the amount in question as a condition precedent to the entertainment of the appeal.

6. Per contra, learned counsel appearing for respondent No.1 submits that despite the lapse of a considerable period, the petitioner has failed to refund the amount payable to respondent No.1 pursuant to the order dated 30.01.2023 passed by the Karnataka Real Estate Regulatory Authority at Annexure-A. It is further submitted that the petitioner has an efficacious alternative statutory remedy of appeal before the competent Appellate Tribunal to challenge the said order. Learned counsel contends that the attachment order dated 22.01.2024 at Annexure-C has been passed solely for the purpose of enforcing and giving effect to the order dated 30.01.2023 at Annexure-A and is therefore consequential in nature. Hence, unless the substantive order at Annexure-A is set aside or modified by the competent appellate forum, the petitioner cannot independently challenge the consequential attachment order at Annexure-C without assailing the order forming the very basis of such recovery proceedings.

7. Having heard the learned counsel appearing for the parties and upon perusal of the material on record, it is evident that the attachment order dated 22.01.2024 at Annexure-C has been passed pursuant to the order dated 30.01.2023 at Annexure-A, passed by the Karnataka Real Estate Regulatory Authority. The attachment order is thus consequential in nature and has been issued for enforcement of the substantive order at Annexure-A. Admittedly, the petitioner has not availed of the statutory remedy of appeal available under Section 44 of the Real Estate (Regulation and Development) Act, 2016. In the absence of any challenge to the substantive order before the competent appellate forum, the consequential attachment order cannot be examined independently on the grounds urged against the substantive order.

8. In view of the availability of an efficacious alternative statutory remedy and having regard to the submission made by the learned counsel for the petitioner

seeking liberty to prefer an appeal, this Court is not inclined to entertain the writ petition on merits. Accordingly, the writ petition stands **disposed of**, reserving liberty to the petitioner to challenge the order dated 30.01.2023 at Annexure-A before the Karnataka Real Estate Appellate Tribunal under Section 44 of the RERA Act, subject to compliance with the statutory requirements, as applicable under law.

9. In the event of the petitioner preferring such an appeal, it is open to the petitioner to seek exclusion of the period spent in prosecuting the present writ petition for the purpose of computation of limitation. If such a plea is raised, the Appellate Tribunal shall consider the same in accordance with law, including the applicable provisions of the Limitation Act, 1963.

10. All contentions of the parties are kept open to be urged before the Appellate Tribunal. It is made clear that this Court has not expressed any opinion on the

merits of the matter, and the Appellate Tribunal shall consider the appeal, if preferred, independently and in accordance with law.

Ordered accordingly.

Sd/-
(B.PRAMOD)
JUDGE

BSV
List No.: 1 Sl No.: 2