

**BEFORE THE MAHARASHTRA REAL ESTATE  
APPELLATE TRIBUNAL, MUMBAI**

**1) AT006000000011026**

Sai Ashray Developers Pvt.Ltd.     ...     Appellant

Versus

Kamlesh D. Ahire & Anr.     ...     Respondents

**2) AT006000000011061**

Sai Ashray Developers Pvt.Ltd.     ...     Appellant

Versus

Ashok Raghvan     ...     Respondent

**3) AT006000000011062**

Sai Ashray Developers Pvt.Ltd.     ...     Appellant

Versus

Yash Textile Machines P.Ltd.     ...     Respondent

**4) AT006000000011063**

Sai Ashray Developers Pvt.Ltd.     ...     Appellant

Versus



Mrs. Rajesh Estate & Nirman  
Pvt.Ltd.

Respondents

(Saloni Sheth a/w Saira Mirzankar, Advocates for Appellant  
Respondents in person in AT006000000011026,  
AT006000000011061, Mr. Sanjay Puranik, Advocate in  
AT006000000011062)

**CORAM : SUMANT M. KOLHE,  
MEMBER (J)**

**DATE : 09<sup>TH</sup> OCTOBER, 2019**

**COMMON ORDER BELOW APPEALS NO.  
AT006000000011026, AT006000000011061, AT006000000  
011062, AT006000000011063,**

1 The appellant, Sai Ashray Developers Pvt.Ltd. is promoter. On 23.7.2019, appellant was directed to deposit 40% of the amount as per impugned order under proviso to Sec.43 Sub Sec.5 of RERA, 2016. The appellant was given time of four weeks to comply order. It was specifically mentioned in said order that "failure to comply order as directed, shall result in dismissal of appeals without reference to Bench". The appeals were adjourned to 29.8.2019 for compliance.

On 29.8.2019, learned Counsel for appellant sought a week time to comply order on the ground that process of merger of appellant company with another



company<sup>is</sup> in progress and appellant will settle accounts as early as possible. In the interest of justice, two weeks time was granted by giving clear understanding to learned Counsel for appellant and representative of appellant company that failure to deposit amount in compliance of order shall automatically result in dismissal of appeals without any further reference. Accordingly, appeals were adjourned to 13.9.2019 for compliance.

On 13.9.2019, this Bench was not functioning and all matters listed on 13.9.2019 were kept on 9.10.2019 by sending fresh emails to that effect to all parties.

On 9.10.2019, learned advocate Saloni Sheth h/f Saira Mirzankar for appellant submits that compliance is not made by depositing the amount. She sought time of a week on the ground of merger of appellant company with another company. On this ground, time of two weeks instead of one week was granted to appellant as seen from roznama of 29.8.2019. Thereafter, appellant got further extension in timeline for depositing the amount as matters on 13.9.2019 were adjourned to 9.10.2019 on account of non-functioning of Bench. It cannot be ignored that order passed on 29.8.2019 granting an extension of two weeks time to make the compliance was also clear on the point that understanding was given to appellant to make the



compliance of order and failure to deposit the amount shall automatically result in dismissal of appeals without any further reference.

Today also, appellant is seeking time. However, there is no justifiable and sufficient reason for further extension of time for depositing the amount. I would like to point out that appeals are filed online. The appellant was well aware that after filing of appeals online, the appellant shall be required to deposit some amount as per order of appellate Tribunal as per proviso to Sec.43 Sub Sec.5 of RERA,2016 in order to entertain and hear the appeals. The appellate Tribunal is expected to hear and dispose of the appeals as early as possible preferably within two months. The period of two months as contemplated under RERA,2016 for deciding the entire appeals is already over. In the present matters, appellant have taken sufficient time to make the compliance of order. Moreover, from 23.7.2019 till today sufficient time and liberty is already given to appellant to make the compliance. In fact, orders passed on previous dates clearly specify that failure to comply with order will automatically result in dismissal of appeals without any further reference. On this backdrop, I am of the opinion that the principle of natural justice is duly followed by giving more than sufficient




time to appellant for making the compliance of proviso to Sec.43 Sub Sec.5 of RERA,2016.

In the result, I pass following order.

- 1) Appeal Nos. AT006000000011026, AT006000000011061, AT006000000011062 and AT006000000011063 stand disposed of for non-compliance of proviso to Sec.43 Sub Sec.5 of RERA,2016.
- 2) Original copy of this order be kept in appeal No. AT006000000011026 and copies thereof be maintained in other appeals.
- 3) Copy of this order be sent to both parties as per Sec.44 Sub Sec.4 of RERA,2016.
- 4) No order as to costs.

09-10-2019

  
(SUMANT M. KOLHE)  
MEMBER (J)