

MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL UNDER RERA Act

No.AT006000000000184

1. M/s. Darode Jog Kulkarni Venture
A Joint Venture having office at
Darode Jog House, 1212 Apte Road,
Deccan Gymkhana, Pune – 411 004. .. Appellant/s

V/s.

1. Ashutosh Suresh Bag
2. Prachi Ashutosh Bag
Both residing at Flat No. S-3, Stilt Floor,
Building No. C-1, 'Tejwalay', Survey No.118/2C,
Warje, Near Cipla Centre, Pune – 411 058 ..Respondent/s

Adv. Shri Subit Chakrabarty i/b Vidhi Partners for the Appellant
M/s. Darode and 5 others.

The Respondent Ashutosh present for self and his wife.

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.

Heard on : 2nd May, 2018

Dictated/Pronounced on: 2nd May, 2018

Transcribed on : 3rd May, 2018

:-ORAL JUDGMENT:-

Heard finally.

1. On 11th April 2018, the Appellant/Promoter was directed to deposit 50% of the amount as directed in the order dated 18th January 2018 of Adjudicating Officer, MahaRERA, Mumbai in the complaint of allottee upto 23rd April 2018. It was informed, "if the amounts are not deposited, without further reference the appeal shall stand dismissed." The matter was adjourned to 24th April 2018 to be taken with appeal preferred by allottee.

2. On 24th April 2018, Shri Chakraborty the Ld. Adv. for Promoter, against the record, under the banner of want of proper communication solicited three days time to comply with the requisitions. Though the earlier directions were quite clear still the Promoter / Ld. Adv. was accommodated to adhere to the order dated 11th April 2018 upto 30th April 2018 by depositing the amount directly with MahaRERA Mumbai.

These directions were in terms of Section 43 (5) Proviso of RERA Act which contemplate, "where a promoter files an appeal it shall not be entertained without the promoter first having deposited with the Appellate Tribunal the amount as indicated in the said proviso....."

3. Today, against the record, Mr. Chakraborty says the order of depositing dated 11th April 2018 could not be complied with owing to intervening Bank Holidays. He has again sought time.
4. The grounds raised by Ld. Counsel are beyond comprehension as on 24th April 2018 itself he was made quite aware of availability of 3 days at the disposal of appellant to deposit the amount, in particular owing to intervening consecutive four holidays. Now the concession sought by the Ld Counsel, which he says on instructions, cannot be and should not be countenanced and hence the slackness demonstrated by the appellant not to adhere to the orders of this Appellate Tribunal calls for dismissal of the appeal, at the consequences and repercussions of the Appellant / Promoter. It is pertinent, the Promoter does not want to give effect to the mandate indicated in Section 43 Proviso and at the same time expects the appeal to be heard, which is impermissible.


:-ORDER:-

1. The appeal no. AT006000000000184 of the Promoter M/s. Darode Jog Kulkarni Venture is dismissed.

2. No costs.

Dictated and pronounced in open Court today.

Place: Mumbai
Dated: 2nd May, 2018


(K. U. CHANDIWAL, J.)
President,
Maharashtra Revenue Tribunal, Mumbai
& I/c. Maharashtra Real Estate
Appellate Tribunal, (MahaRERA),
Mumbai