

MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL UNDER RERA Act

(9)
No.AT006000000000196

M/s. Kings Builders and Developers
C/o. Sanjay Chaturvedi Associates
Anmol Bldg. Ground 1st lane, 7th Rd.
Santacruz (E) Mumbai 400 055.

.. Appellant/s

V/s.

M/s. Kings Empire Heights Pvt. Ltd.
Kings Empire Heights
Through its Director Mr.Pankaj Kantilal Shah

..Respondent/s

Adv. Sanjay Chaturvedi for the appellant.

Adv. Altaf Khan for Respondent No.1.

Respondent no.2 formal.

Shri Altaf Khan has filed Vakalatnama.

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.
Heard on : 10th April, 2018
Dictated/Pronounced on: 10th April, 2018
Transcribed on : 11th April, 2018

-:ORAL JUDGMENT:-

Heard finally.

1. The Order of chairperson MAHARERA dated 26th Sept. 2017 is subject of challenge.
2. Mr. Chaturvedi for the appellant has while assailing the order under challenge requested that all the points which were forming part of Complaint before the chairperson of MahaRERA, have not been dealt with. The interest of the appellant as complainant in the




property was required to be protected which is not done. He desires that there should have been a separate Registration Number for the appellant to register the very project with MahaRERA. He has objected to participation / registration with MahaRERA by Pankaj Shah on behalf of Kings Empire Heights Pvt. Ltd, as an authorized signatory.

3. The Ld. Counsel for the Respondent in the appeal has tendered reply by way of affidavit, copy whereof is served on Mr. Chaturvedi today. In the reply a point of limitation to prefer the appeal is highlighted. There is reference to Arbitration Proceedings being Commercial Arbitration Petition 373 of 2017. The steps taken by the Respondent while registration of the project are indicated. It is informed that M/s. Kings Empire Heights Pvt. Ltd. passed a Resolution dated 31.3.2017 in favour of Pankaj Shah regarding handling of Bank a/c. To sign register and all necessary documents of the project. By this resolution, the rights were vested in the Director of Respondent No.1 Pankaj Shah and accordingly he is discharging the duties.

4. I have perused text of complaint of the appellant and the impugned order. The deficiencies and incomplete disclosures in MahaRERA registration pertaining to subject project highlighted by the appellant Nilesh Kudalkar are referred by the Ld. Chairperson in the Order dated 26th September, 2017.

It is confirmed across the Bar that all these requisitions have been cured, rectified by Respondent with MahaRERA and the concerned record is updated/rectified. The status of Pankaj Shah though at the time of registration was shown to be Authorized Signatory but to the knowledge of appellant he was a director and a signatory to the joint venture of the Development Agreement with the appellant. Hence it is not open to create spike and doubt to be merely an Authorized Signatory.

5. The parties have already taken up their controversy in Arbitration Petition referred to above. It is for the parties to get their rights adjudicated upon with proper forum and MahaRERA will not be dealing with the civil controversies between the parties. So far as point of limitation, I do not find so. A Writ Petition was preferred by the appellant and it was pending for removing office objection. The Prothonotary was notified on 30.1.2018 to remove office objection. Probably during the notified period of 30 days the office objection are not removed and hence the Writ Petition on stamp was disposed off.



By mere calculation it is apparent that there is no delay in questioning the order under challenge before this Tribunal as the time was consumed when the matter was taken up in the High Court. These points are indicated in the appeal though appellant was required to file a separate application. Hence on point of limitation objection does not sustain ground.

6. On evaluation of the order and the controversy between the parties the last requirement expected from the Respondent in the appeal, was also dealt with and resolved as it was to be done before 28th Sept. 2017.

7. The Company was incorporated with 4 shareholders Pankaj K Shah, Nilesh Kudalkar, Mahesh Kordia and Mr.Hitesth Mehta with equal shares in the capital. There was admittedly a Development Agreement of the appellant on 29.11.2007 wherein Development Rights were extended to M/s. Kings Empire Heights Pvt.Ltd. IOD and CC of the project have been obtained on 14th July, 2008 and 16.9.2008 by the appellant. The Joint Development Agreement was executed on 3rd Oct. 2008 for joint development of the property. In this situation the status of the appellant in the property and in the project, as enumerated in the Agreement is primarily reflected with MahaRERA registration of the project. Other civil rights between the parties are beyond scope of RERA. Hence the objection and challenge to the order dated 26th September, 2017 sans merit and hence no interference.

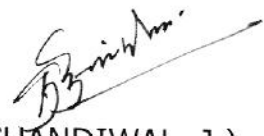
:-ORDER:-

1. Appeal dismissed

2. No costs.

Dictated and pronounced in open Court today.

Place: Mumbai
Dated: 10th April, 2018


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