

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

Misc Application No. 295/19 for Stay

In

AT 00600000031514

M/s. Sanvo Resorts Pvt. Ltd

...Applicant

V/s

Mr. Krishnan Iyer

..Non-Applicant

(Advocate Prasanna Tare a/w Advocate Akshada Shetye for Appellant.

Mr. Krishnan Iyer, Respondent in person).

CORAM : SUMANT KOLHE, MEMBER (J)

S. S. SANDHU, MEMBER (A)

DATE : 16th January, 2020

ORDER BELOW MISC APPLICATION

PER SUMANT KOLHE, MEMBER (J).

Read application for stay and say filed by the non-applicant. Perused affidavit of Appellant.

2. Heard Learned Counsel for Appellant and the Respondent in person.

3. Impugned order dated 04.04.2019 challenged in this appeal pertains to payment of interest for delayed period of possession. In compliance of Proviso to Section 43(5) of the RER, Act, 2016 the Appellant has deposited 50% of the amount pursuant to the order of Tribunal.

4. Learned Counsel for Appellant submitted that delay in completion of project and handing over possession of the flat was due to factors beyond control of Appellant. He also submitted that to show its bona fide Appellant has already deposited 50% amount as per impugned order as directed by the Tribunal. He brought to our notice that Respondent has already lodged execution application for implementation of the order with MahaRERA. In case an order against Appellant is passed in the execution proceedings the appeal will be rendered infructuous causing thereby irreparable loss to Appellant. Therefore, Appellant prayed for grant of stay to the operation and execution of impugned order till decision of the appeal.

5. On the other hand, Respondent in person argued that he is suffering financial loss on account of delay in possession. He also submitted that even today the flat is not in a ready to move in position. Therefore, the respondent pressed for rejection of stay application.


6. On hearing the parties, we find both the parties have an arguable case which needs to be considered and decided at the time of final hearing of the appeal. We also note that depositing of the amount, as a pre-requisite for entertaining the appeal as per proviso to Section 43(5) of the RER Act is already complied with by Appellant. In view of these facts, we feel it just and proper to grant stay to the impugned order till decision of the appeal.

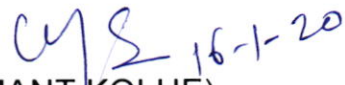
7. Accordingly, we allow the application for stay and pass the following order:-

ORDER

1. Misc. Application No. 295/19 for stay is allowed and stay to the execution and operation of impugned order is granted till decision of appeal.

2. Stand over to 11.02.2020 for further consideration.


(S.S.SANDHU)
MEMBER(A)


(SUMANT KOLHE)
MEMBER(J)