

**MAHARASHTRA REAL ESTATE APPELLATE
TRIBUNAL UNDER MahaRERA Act**

(3)

No.AT006000000000024

Saidham SRA Sahakari Grihnirman Sanstha
Maryadit .. Appellant/s
V/s.
M/s. S.S. Developers and Builders & Anr. .. Respondent/s

CORAM : Hon'ble Shri K. U. CHANDIWAL, J.
President, Maharashtra Revenue Tribunal, Mumbai
& I/c. Maharashtra Real Estate Appellate Tribunal under
Maharashtra RERA Act
DATED:-14th March, 2018

:- ORDER :-

Called out at 3.30PM.

Adv. Shri. Amardev Uniyal appeared for the Appellant.

None present for the Respondent.

After arguments of Adv. Uniyal is completed, Adv. Madhur Surana, Adv. for Respondent No. 1 appeared, he has filed his Vakalatnama.

- 1) Heard both the Advocates finally. The order dtd. 15.12.2017 of the Member-1 Maha-RERA, Mumbai is under challenge by original complainant - the Co-operative society.
- 2) The grievance is, the inaction on the part of the Respondent no. 1 and illegalities committed by him has forced the appellant (Original complainant) to take action against the Respondent M/s. S.S.V. Developers with Chief Executive Officer, S.R.A. By Order dtd. 20th June. 2017 the said authority has terminated the arrangement / Agreement in terms of Sec. 30 (12) of the Maharashtra Slum Area Act, 1971 for the subject SR Scheme. By the said order, the appellant M/s. Saidham Housing Society was directed to choose their developer after taking a General Body Resolution.
- 3) The appellant says, that inspite of termination of Agreement and the rights vested with M/s. S.S.V.



Developer, he had no rights to get its project regd. bearing P51A00007086, on 17th August, 2017 The Appellant has canvassed that this is a total illegality and due to non disclosure of true & correct facts and playing a sort of fraud, the effect of Sec. 4 of RERA Act comes into operation and consequently calls for action against Respondent no.1.

- 4) Before the Ld. Authority at the time of hearing, prior to 14th Dec. 2017 and on 14th Dec. 2017 it was informed by resp. no.1 that he has challenged the order referred to above dtd. 20.6.2007 before Apex Grievance Red. Comm.

On analysis of the document, it is noticed that as on 14.12.2017 there was no appeal registered or lodged with the Appellate Authority as the appeal was received by the Apex Authority on 30.12.2017 at 4.00 P.M. (Pg.372 of the appeal memo.) There was deliberate suppression of facts by Respondent no.1 from Learned Members, which calls for condemnation.

- 5) The Ld. Member-1 was naturally ill informed by resp. no.1 of preferring the appeal. There was lack of authority in resp. no.1 on 17.8.2017 when the project was registered. There is no stay of the Appellate Authority in favour of resp. no.1 though the Ld. Counsel for Respondent no. 1 says the statutory arrangements contemplates filing of the appeal against the order dtd. 20/6/2007 are kept in abeyance.

The overall effect is, based on incorrect statement of resp. no.1 the impugned Order dtd. 14th Dec. 2017 is recorded which calls for interference. The Ld. Member shall hear the parties on merits and pass appropriate order.

This is more so, several angularities are projected of high handedness of Respondent no.1 in dealing with the Appellant Co-op. Hsg. Soc. These details will have to be analytically addressed by fact finding Authority.

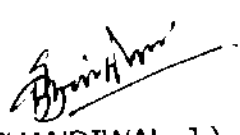
- 6) The other grievance is put forward either by app. And by Respondent No.1 as to the legal status of resp. no.1 or legal status of Appellant or

maintainability of the complaint before the Authority or completion of project by Respondent no.1 or completing Rehab for 170 occupants are left untouched to be dealt with supported by documents before the Authority.

ORDER

- 1) The appeal is partly allowed. The order dtd. 14.12.2017 of Ld. Member 1 RERA is set aside. The Ld. Member-1 RERA is requested to decide the complaint on its merits by affording opportunity to both the sides as an inbuilt arrangement is made in the RERA act to regulate activities of project of construction of buildings.
- 2) On the statement of Respondent no.1, for a period of 2 months, the Respondent no. 1 shall not create third party interest in respect of the applicant's property, subject to LOI dt. 20th Sept. 2009.
- 3) The parties to appear before the Ld. Member on 19th March 2018 . No costs. All points kept open.

Place: Mumbai
Dated: 14th March, 2018


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