

BEFORE THE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL, MUMBAI

Appeal No. AT006000000010643

M/s. Dhanashree Developers Pvt. Ltd.
Through Director Mr. Shankarrao A. Borkar
Corporation Office:
303 Western Edge-1, W.E. Highway,
Borivali (East), Mumbai 400 066.

..Appellant

Versus

1. Prachi Pramod Ghag,
B-102, Mangalaarti Co-op. Housing Society,
Kesarbaug, Mulund (East),
Mumbai 400 081.
2. Suvarna Raut,
Runwal Heritage, B-204, 2nd floor,
Navghar Lane No.1,
Near Campus Hotel,
Mulund (East), Mumbai 400 081.
3. Vikas Laxman Utekar
4, Girija Niwas,
1st Lane, Navghar Road,
Mulund (East), Mumbai 400 081.
4. Mr. Ramchandra Pandurang Tari
A-45/2-3, Sector – 15, Airoli,
Navi Mumbai 400 708.

5. Nilambari Kulkarni,
302 Satyam Apartment,
Village Road, Near Shreeram College,
Bhandup (West), Mumbai 400 078.
6. Sudhakar Babanrao Datir
702 Manisha Annex,
Opp. Manisha Tower,
Tara Colony, Navghar Road,
Mulund (East), Mumbai 400 081.
7. Bhikaji Tupsundare
11 Shree Balaji Apartment
Opp. Mansarovar Society,
Sector 9 Diva Gaon,
Airoli, Navi Mumbai 400 078.
8. Jyoti Shrinivas Naik
Gokul Mathura CHS,
Gokul Bldg. 304, 3rd floor,
Neelam Nagar Phase I,
Gavanpada, Mulund (East) 400 081.
9. Ambadas Shantappa Katke
B 505/Aniket CHS, Opp. Allahabad Bank,
Hanuman Chowk, Mulund (East),
Mumbai 400 081.
10. Mr. Sudhir Ramchandra Phatak
B/38 Jatashankar Apartment,
M.P. Road, Opp. Chintamani Deshmukh Garden,
Mulund (E), Mumbai 400 081.

11. Padmakar Rupchand Wani
C-9, Bhaskardarshan CHS,
Opp. Sambhajiraje Hall
Mahanagar Gas Office,
Mulund (East), Mumbai 400 081.
12. Laherchand L. Soni,
33/5 Riddhi Siddhi,
B.K. Road, Mulund (East),
Mumbai 400 081.
13. Sudhir Shivram Manjrekar,
Samata CHS Room No.10, 3rd floor,
Navghar First Lane,
Mulund (East), Mumbai 400 081. .. Respondents
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Mr. Sanjay Chaturvedi, Advocate for Appellant.
Mr. Rajesh Mudholkar, Advocate for Respondents

CORAM : INDIRA JAIN J.,CHAIRPERSON &

S.S. SANDHU, MEMBER(A)

DATE : 1st FEBRUARY, 2019.

COMMON JUDGMENT (PER : INDIRA JAIN, J)

Appellant / developer questions the legality, propriety and correctness of the order dated 6.9.2018 passed in Complaint Nos. CC006000000055131 and CC006000000055035 by the Ld. Chairperson, Maharashtra Real Estate Regulatory Authority.

2. Heard Shri Sanjay Chaturvedi and Shri Rajesh Mudholkar, Ld. Counsel for appellant and respondents respectively.

3. Ld. Counsel for appellant submitted that there was no communication to the appellant and so he could not appear before the Authority. A grievance is made that without giving an opportunity of hearing, ex-parte order came to be passed on the first date of hearing. Ld. Counsel submits that on merits, appellant has a strong case and an opportunity ought to have been given to explain his case and defences. Appellant submitted that principles of natural justice have been violated as opportunity is denied for no fault on the part of appellant.

4. Per contra, Ld. Counsel for respondents submits that copy of complaint was served and appellant was aware of filing of complaints by respondents. The submission is that despite communication appellant failed to appear and therefore Ld. Chairperson has rightly marked absence of appellant and proceeded with the order.

5. On merits, contention is raised on behalf of respondents that order simply refers to Section 15 of RER Act and directs the appellant to comply with statutory requirements as laid down under Section 15. It is submitted that no injustice has been caused to the appellant and appeal is filed only to protract the completion of project and handing over its possession to flat purchasers.

6. On careful perusal of the impugned order, it is apparent that appellant was not present despite service of notice before the Authority. Appellant sought time to file affidavit in support of the grounds raised in appeal but failed to file the same. In the absence of any material we do not find substance in the grievance of appellant that date of hearing was not communicated.

7. However, as order illustrates to be ex-parte, without further adverting to the merits and keeping in view factual scenario, we find it appropriate to remand the matter so as to avoid multiplicity of

proceedings on trivial reasons. In the result, we proceed to pass the following order:

- i] The order dated 6th September, 2018 passed by the Ld. Chairperson, MahaRERA is set aside, subject to cost of Rs.50,000/- per complaint as condition precedent;
- ii] Appellant to deposit costs within two weeks failing which appeal shall be treated as dismissed;
- iii] Matters are remanded to the Ld. Chairperson, MahaRERA for their disposal in accordance with the law, preferably within four weeks from the date of depositing costs;
- iv] Parties to appear before the Authority on 12th February, 2019.


(S.S. SANDHU)


(INDIRA JAIN J)