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**MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL**

**APPEAL NO. AT006000000010586**

M/s. Vidhi Realtors. ... Appellant/s.  
Vs.  
Mr. Rahul Vivek Nadkarni. ... Respondents.

**CORAM : SUMANT M. KOLHE, Member (J.)**

**DATE : MARCH 11, 2019.**

**Appeal Under Section 44 of RERA ACT 2016.**

**ORDER**

1. None for the appellant at 1.45 pm. when the matter is called. Advocate Mr. Godfrey Pimenta for the respondent is present. They have submitted to dismiss the appeal for <sup>n</sup>on-compliance of proviso of Section 43(5) of RERA Act
2. Matter is kept back in second session in order to know whether the appellant has made compliance or not.

Kept back.

**Later on :**

Appeal is filed by promoter. Order passed under Section 18 of RERA Act 2016 is challenged by the promoter. In view of proviso of Section 43 Sub-section 5, whenever Appeal is filed by the promoter, he is required to deposit some amount as per impugned order. Unless the amount at least to the extent of 30% is deposited, Appeal cannot be entertained and thereafter, cannot be heard. In this matter, promoter was directed to deposit the amount. However, promoter has failed to deposit the amount. The promoter remained absent. So, promoter has not sought extension of time for depositing the amount in the interest

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of justice. Since, it is statutory mandate to entertain and hear the Appeal only after the promoter has made compliance of proviso of Section 43 sub-section 5 of RERa Act, 2016, by depositing the amount, it is obligatory on the part of promoter to comply the said mandate. After giving sufficient opportunity and sufficient time to the promotee for making compliance, today I have no reason to suo moto again adjourn the matter for such compliance. It is true that Appeal should be heard on merit after hearing both the sides by following principle of natural justice instead of dismissing it on technical ground such as non-compliance. In fact principle of natural justice is followed by giving reasonable time to the promoter to comply the order. It appears that promoter is not interested. So, I pass the following order.

**ORDER :**

1. Appeal No. AT006000000010564 is dismissed for non-compliance of proviso of Section 43(5) of RERA Act, 2016.
2. No order as to costs.

11-03-2019

*W. Kolhe* 11-3-19  
(SUMANT M. KOLHE)  
JUDICIAL MEMBER,  
Maharashtra Real Estate  
Appellate Tribunal, (MahaRERA)  
Mumbai.

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BEFORE THE  
MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL.

Date : Monday, 11<sup>th</sup> March, 2019.

ATTENDANCE SHEET

Sr. No. As per Cause List :-

APPEAL NO. AT006000000010586

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Advocate/Representative for the Appellant/s

Mobile No.



Adv. GOOKEY PIMENTA

9819730201

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Advocate/Representative for the Respondent/s

Mobile No.