

Sarnobat

**MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL**

**APPEAL NO.0006000000010771**

**Merchant Constructions Pvt. Ltd.** )  
403m "Panju Mahal", 112B, )  
B. J. Road, Bandra (West), )  
Mumbai-400 050. )

... Appellant.

Vs.

**1) Richard Jerome Dsilva,** )  
Through C.A. Mrs.Doreen )  
Richard Dsilva, )  
201, Raylon Ark, Opp. Neo )  
Blaise Vahatuk Nagar, )  
Amboli, Andheri (West), )  
Mumbai-400 058. )

**2) Maharashtra Real Estate** )  
**Regulatory Authority,** )  
Office at 3<sup>rd</sup> Floor, Slum )  
Rehabilitation Authority, )  
Administrative Building, )  
Anant Kanekar Marg, Bandra (E ), )  
Mumbai – 400 051. )

... Respondents.

Shri Inez Lazar, Advocate for Appellant.

Shri Makrand V. Raut a/w Hima Khuman, Advocate for  
Respondents.

**CORAM : INDIRA JAIN J. (Chairperson)**

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

**S. S. SANDHU (Member A)**

**DATE : 16<sup>th</sup> July, 2019.**

MS

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

**ORAL JUDGMENT : (PER :SUMANT M. KOLHE, MEMBER (J))**

Order dated 31.08.2018 passed by Learned Member and Adjudicating Officer of MahaRERA Authority in Complaint No. CC006000000044422 is assailed in this Appeal.


2. Heard counsels of both sides at length. On 11.06.2019, as per index Appellant has submitted some documents which were neither submitted in complaint before MahaRERA Authority nor at the time of filing of the Appeal. The Ld. counsel for the Appellant submitted to consider the documents in Appeal or remand the matter to MahaRERA for a fresh decision as the documents are material to adjudicate the dispute between the parties. The Ld. counsel for the Respondent submitted that, opportunity should be given to the Respondent to challenge admissibility and evidential value of those documents before MahaRERA Authority. Documents submitted in hearing of appeal are material and necessary for determination of the dispute between the parties.

3. We set aside the impugned order and remand the matter to MahaRERA Authority for fresh hearing after giving opportunity to both the sides, to submit additional pleadings and additional evidence if any and to decide the matter on merit in accordance of law. Hence, we pass the following order;

**ORDER**

- 1) Appeal No. AT006000000010771 is allowed.
- 2) Impugned order dated 31.08.2018 passed by Ld. Member and Adjudicating Officer of MahaRERA Authority in Complaint No. CC0060000000044422 is set aside.
- 3) Matter is remanded back to MahaRERA Authority for fresh decision on merit after giving opportunity to both the sides.
- 4) Parties shall appear before the MahaRERA Authority on 05.08.2019 at 11.00 am.
- 5) No order as to costs.

WS

  
[ S. S. SANDHU ]  
Member A

  
[ SUMANT M. KOLHE, ]  
JUDICIAL MEMBER,

  
[INDIRA JAIN]  
Chairperson