

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

**Misc Application No. 287 of 2019 (Stay)**

**In**

**AT 00600000031580**

M/s Sanvo Resorts Pvt. Ltd	...Appellant
V/s	
Mr. Sushil K Salvi	..Respondent

(Advocate Prasanna Tare a/w Advocate Akshada Shetye for Appellant.  
Advocate Shyam B.Mohite for Respondent.)

**CORAM : SUMANT KOLHE, MEMBER (J)  
S. S. SANDHU, MEMBER (A)**  
**DATE : 30<sup>th</sup> DECEMBER ,2019**

**ORDER BELOW MISC APPLICATION 287 OF 2019**

**PER SUMANT KOLHE, MEMBER (J).**

Read application for stay and say. Perused affidavits of appellant and respondent.

2. Heard Learned Counsel for both the sides.

3. Impugned order 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 already deposited 40% of the amount pursuant to the order of Tribunal.

4. The appellant has prayed for stay to the operation and execution of impugned order till decision of the appeal. According to appellant, appeal is the statutory right provided under the Act. If impugned order is not stayed, an order passed in execution proceedings may render the appeal as infructuous. After hearing the parties we find both the sides have arguable case to be decided at the time of final hearing of the appeal. In such circumstances, we are of the opinion that impugned order needs to be stayed till decision of the appeal.


5. 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. However, the order being in favour of Respondent, the request for granting stay to the impugned order till final decision in the appeal can be considered subject to depositing of additional amount to secure the interests of Respondent. We therefore feel it just and proper to pass conditional order directing the appellant to deposit 20% amount as per impugned order in addition to the amount already deposited as above in office within 15 days from the date of this order. Accordingly, we allow the application for stay and pass the following order:-

#### **ORDER**

1. Misc. Application No. 287 of 2019 is allowed.
  - a) Stay to the execution and operation of impugned order is granted till decision of appeal on the condition that appellant in addition to the amount deposited in compliance of proviso to Section 43(5) of the RER Act, 2016 shall deposit 20% of the amount as per impugned order in office within 2 weeks

from the date of this order. Failure to deposit the amount as directed above, application for stay shall stand rejected.

2. Stand over to 11/02/2020 for further consideration.

  
(S.S. SANDHU)  
**MEMBER(A)**

  
(SUMANT KOLHE)  
**MEMBER(J)**

Sdr/-