

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

**Misc. Application No. 328/2019 (Stay)
In
Appeal No. AT006000000031613**

**M/s. Adarsh Industrial
Estate Pvt. Ltd. Appellant**

Versus

Sonal Agarwal Respondent

WITH

**Misc. Application No. 329/2019 (Stay)
In
Appeal No. AT006000000031612**

**M/s. Adarsh Industrial
Estate Pvt. Ltd. ... Appellant**

Versus

Sapna Ashok Gupta ... Respondent

WITH

**Misc. Application No. 330/2019 (Stay)
In
Appeal No. AT006000000031611**

**M/s. Adarsh Industrial Estate
Pvt. Ltd. ... Appellant**

Versus

Malati Ashok Gupta ... Respondent

Adv. Gauri Tyagi a/w Adv. Bency Ramkrishnan i/b Adv. Akash Menon for Appellant in all Appeals.

Adv. Syed Ahmed for Respondent in all Appeals.

CORAM : SUMANT KOLHE, MEMBER (J)

S. S. SANDHU, MEMBER (A)

DATE : 31st AUGUST, 2020

COMMON ORDER

[PER SUMANT KOLHE, MEMBER (J)]

Appeals are directed against impugned order dated 8th May 2019, passed by Adjudicating Officer. Impugned order is similar and identical in all the three matters. Appellants are the Promoters who are same in three matters. Respondents are the Allottees who are different in all the three matters. Promoter has filed separate application for stay in each appeal. Common and identical submissions are made by both the parties in three matters. We decide three applications for stay by this common order.

2. As per the impugned order, promoter is directed to refund the amount with interest and costs to the Allottee. Promoter preferred an Appeal against the impugned order. Promoter has filed application for stay of operation and execution of impugned order.

3. According to Promoter, 40% amount as per impugned order is deposited in the office of the Tribunal towards

compliance of Section 43(5) of RERA. It is the apprehension of the Promoter that Allottees may execute the impugned order during the pendency of the appeal and appeal may become infructuous and Promoter may suffer irreparable loss. Promoter has contended that he has good case on merit in Appeals. So, Promoter has prayed for stay to the operation and execution of the impugned order.

4. Heard Counsel for both the sides. Perused impugned order.

5. Following points arise for our determination.

POINTS

i) Whether Promoter has made out a prima-facie case for stay?

ii) What order?

6. Our findings for the reasons stated below are as under:

i) Affirmative

ii) As per final order.

7. As per the impugned order, Promoter is directed to refund the amount along with interest and costs to the Allottees in each case. Promoter challenged the order by preferring an appeal. Promoter has complied proviso to Section 43(5) of RERA by depositing 40% amount as per the impugned order in the