

Sarnobat

**ORDER BELOW SPEAKING TO THE MINUTES**

As per common order dated 16.05.2019 passed by Judicial Member, Maharashtra Real Estate Appellate Tribunal, Mumbai in Appeal Nos. AT00600000010587 and AT00600000010588 , both the Appeals are dismissed and common impugned order dated 23.07.2018 passed by Ld. Member-(1), MahaRERA Authority in Complaint No. 12750 and 55006 is confirmed.

Perused the application for speaking to the minutes of the common order dated 16.05.2019. It is preferred by original Respondents (Allottees). Heard Ld. counsel for Allottees. E-mail and notice were sent and served to the original Appellants (Promoters). However, Promoters remained absent.

2. Record and proceedings of both Appeals is called. I have perused record and proceedings of both Appeals. I have also perused the original order dated 16.05.2019 for which application for speaking to the minutes is preferred by the Allottees.

3. It is revealed that due to technical mistake and typographical error some portions in the body of judgment is inadvertently recorded. Allottees have pointed out such portions and requested to amend or review or delete the portions. As the portions pointed out and mentioned in the application has no concern with both Appeals and that portions do not form part and

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parcel of the dispute involved in both the Appeals, I think it just and proper to rectify the order by deleting and substituting the said portions from the body of judgment. There will be no change in operative part of the order. So, deletion of said portions with minor substitution is not affecting the reasoning, findings and final decision of both the Appeals. So, I allow the application for speaking to the minutes of the order dated 16.05.2019 and delete the portions pointed out in the application.

4. The Ld. counsel for Allottees submitted that the Allottees have claimed the interest from January 2016 and MahaRERA Authority granted the interest from July, 2017 and both Appeals preferred by Promoters have been dismissed. He further submitted that interest be awarded from January, 2016 to the Allottees by amending or rectifying the operative order. Submission made by Ld. counsel for Allottees cannot be accepted for the reason that only typographical error or mistake arising out of slip of hand is permitted to be considered for speaking to the minutes of the order.

5. The Hon'ble Apex Court observed in Appeal **Akhil Bhartvarshiya Marwari Agarwal Jatiya Kosh Vs. Brijal Tibrewal, 2018 SCC**, decided on 14-12-2018 that;

*"A Note for speaking to Minutes is required to be entertained only for the limited purpose of correcting a typographical error or an error through oversight, which may have crept in while transcribing the original order.*

*Once, the judgment/ order is pronounced and if any party to the same wants any rectification of any typographical error and any clerical mistake regarding the date or number, such a party may apply to the concerned Court for correcting such an error in the judgment/order. However, a Note for speaking to the minutes cannot be considered at par with a review application or in a given case, with an application for clarification/modification of an order. A Note for speaking to the Minutes can never be considered to be an application of such a nature."*

Since order passed by Member-(1) of MahaRERA Authority is confirmed by dismissing both the appeals, request of Allottees to grant the interest from January, 2016 by amending the operative order and thereby changing the final decision cannot be considered. I pass the following order;

**ORDER**

The application for speaking to the minutes of the order dated 16.05.2019 passed in Appeal Nos. AT006000000010587 and Appeal No. AT006000000010588 is allowed as under :-

- i] Para 6, para 15 and para 17 in the judgment of Appeal Nos. AT006000000010587 and Appeal No. AT006000000010588 are deleted.
- ii] The following portions of the respective paras are also deleted.

- 1) **Para No. 11** :- It is not in dispute that occupation certificate is issued and promoter has offered the

possession of the flat with OC to the allottees in the month of March, 2018.

- 2) **Para No. 19**:- Admittedly, promoter has not preferred Appeals against other allottees since promoter and other allottees amicably settled the dispute and promoter has already handed over the possession of respective flats of such other allottees to them.
- 3) **Para No. 25** :- Concession of 18 months to the promoter out of total delayed period of possession of 26 months.
- 4) **Para No. 26** :- If promoter has amicably settled the similar matters of other Allottees arising out of same impugned order. It is just and equitable to settle the present matters by promoter with present allottee also.
- 5) **Para No.27** :- For delayed period of possession of 8 months out of total delayed period of possession of 26 months.

iii] Portion of para 25 as mentioned above is substituted by following portion;

“Interest from 1<sup>st</sup> July, 2017 till the date of possession.”

iv] Similarly the above mentioned portion of para 27 have been substituted by the following :-

“From 1<sup>st</sup> July, 2017 till the possession.”

v] In Para 10 regarding points for determination and finding No. II, the portion 8 months is deleted and it is

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substituted by the portion "from 1<sup>st</sup> July, 2017."

vi] With the above deletion and necessary minor additions regarding specific text, the order dated 16.05.2019 passed in Appeal Nos. AT006000000010587 and Appeal No.

AT006000000010588 stand corrected and modified.

vii] This order shall form part and parcel of original order dated 16.05.2019 passed in both the Appeals.

viii] Original copy of order be kept in Appeal No. AT006000000010587 and copy be maintained in Appeal No. AT006000000010588.

ix] Copy of this order be sent to Promoter and Allottees as per Section 44(4) of the RER Act.

*WKS*

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**(SUMANT KOLHE)**