

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

Execution Application No. 71/19

In

Appeal No. AT006000000010801

Mrs. Ragini Kamal Chokshi ... Applicant

Versus

Mr. Hemendra Mapara ... Respondent

Adv. Sunny Shah i/b Kartik Garg for Applicant.

None for Respondent.

**CORAM : SUMANT M. KOLHE, MEMBER (J)
S. S. SANDHU, MEMBER (A)**

**DATE : 4th JANUARY, 2021
(THROUGH VIDEO CONFERENCING)**

**ORDER BELOW EXECUTION APPLICATION NO. 71/19
IN APPEAL NO. AT006000000010801**

[PER: SUMANT KOLHE, MEMBER (J)]

Applicant Mrs. Ragini Kamal Chokshi has filed this Execution Application for recovery of Rs. 1 Lac from Respondent as per order dated 5th April, 2019 passed by this Tribunal.

Complaint No. CC006000000054632 was filed by Applicant against Respondent. As per order dated 29th August, 2018 passed in Complaint No. CC006000000054632 by

MahaRERA, Respondent was directed to refund the amount with interest to Applicant. Respondent preferred Appeal No. AT006000000010801 against the said order. Respondent filed application for withdrawal of the Appeal to the Appellate Tribunal. As per order dated 5th April 2019 of the Tribunal, Appeal No. AT006000000010801 was disposed of as withdrawn and Respondent was directed to pay costs of Rs. 1 Lac to Applicant.

2. Respondent has not paid costs of Rs. 1 Lac to Applicant as directed. Applicant preferred Execution Application for recovery of Rs. 1 Lac. Execution Application is supported by an affidavit of Applicant. "**Escrow Account**" of Respondent in "**Yes Bank**" was seized for recovery of amount. Yes Bank reported that balance retained in the "**Escrow Account**" of Respondent was **Nil**. Respondent has filed affidavit on record and contended that their bank account of "**HDFC Bank**" is freezed by Collector office and their bank account with "**Bank of India**" is freezed by "**VAT**" department. Respondent has failed to pay Rs. 1 Lac to Applicant as per order of this Tribunal. Applicant has prayed for attachment of immovable properties of Respondent. Applicant has given the details of the immovable properties to be attached. Applicant has also filed affidavit in support of her prayer for attachment of immovable properties.

3. As per Section 40(1) of RERA if the Promoter fails to pay any interest or penalty or compensation imposed on him, ✓

by Authority or the Appellate Tribunal under this Act or rule and regulations made thereunder, it shall be recoverable from such Promoter in the manner as may be prescribed as an arrears of the land revenue.

4. Respondent has failed to comply with the order of this Tribunal by paying Rs. 1 Lac to Applicant. Respondent has remained absent and has failed to show any reason for non-compliance of the order dated 5th April, 2019. Accordingly, it is thought fit to issue warrant of attachment of immovable property of Respondent for recovery of the amount. So, we pass the following order.

ORDER

- 1) Execution petition No. 71/19 in Appeal No. AT00600000010801 stands disposed of in the following terms.
- i) Issue warrant of attachment of following immovable property of Respondent as described under Section 40(1) of RERA for recovery of Rs. 1 Lac as per order dated 5th April, 2019 of this Tribunal in Appeal No. AT00600000010801.

"Hill View, Plot Nos. 149 & 152, Mahul Road, Azad Nagar, Chembur, Mumbai – 400074."

- ii) Registrar of the Appellate Tribunal shall take necessary steps for issuing recovery warrant as directed above in the prescribed format and shall issue letter to the concerned Collector for execution of such warrant. Registrar shall report the compliance made accordingly on or before 11.01.2021.
- iii) Copy be sent to both the parties and MahaRERA as per Section 44(4) of RERA.


(S. S. SANDHU)

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(SUMANT KOLHE)