

**MAHARASHTRA REAL ESTATE APPELLATE**  
**TRIBUNAL UNDER RERA Act**

**No.AT006000000010683**

L & T Parel Project LLP  
L & T House, N.M. Marg,  
Ballard Estate, Mumbai 400 001.

.. Appellant/s

V/s.

1. Akshat Kejriwal
2. Alok Kejriwal  
83, Tenerife, Little Gibbs Road,  
Malabar Hill,  
Mumbai 400 006.

3. Omkar Realtors & Developers Pvt.Ltd.
4. Omkar Realtors & Developers
5. Darshan Realtors Pvt. Ltd.  
Omkar House, Off Eastern Express  
Highway, Opp. Sion Chunabhatti  
Signal, Sion East, Mumbai 400 022.

..Respondent/s

Adv. Naushad Engineer a/w Chirag Kamdar, Anushree U. And Abir Patel i/b Wadia Ghandy & Co.

Adv. S.G. Bhandari for Respondent no. 1.

CORAM :Hon'ble Shri K. U. CHANDIWAL, J.  
Heard on : 24th October, 2018  
Dictated/Pronounced on : 25th October, 2018  
Transcribed on : 25th October, 2018

**:-ORAL JUDGMENT:-**

Heard extensively.

1. The Promoter feels aggrieved by directions dated 5<sup>th</sup> September, 2018 of Ld.Member and Adjudicating Officer, MahaRERA, Mumbai whereby the Adjudicating Officer has directed the Promoter to



execute and register the Agreement for sale of Flat No. 2804 in Allottee's name by mentioning the correct (reduced) area and reduced consideration of it, as per other terms and conditions regarding car parking etc. at Allottee's cost within seven days from the order.

2. My attention was invited to first allotment letter concerning Unit bearing No. 2704 on the 27<sup>th</sup> floor in "Crescent Bay" in Tower T06, which provided the minimum area as 119.69 equivalent to 1288.38 sq.ft. (carpet area includes enclosed balcony). It was thereafter at the instance of the Allottee, having sought to modify the booking by shifting from the said flat to flat bearing No. 2804 in Tower 6. New allotment letter was issued dated 29<sup>th</sup> June, 2017 for the said area including ancillary area of 58.23 sq.mtrs.
3. The controversy revolves to this letter which according to the Allottee is for a reduced area as definition of carpet area in terms of Sec. 2(a) of RERA is showing certain exclusions in calculation to that of MOFA and in particular 3(2)(I) of Maharashtra Ownership of Flats Act (MOFA).
4. During the course of submissions, my attention was drawn to another order virtually between same parties in the case of Satyanarayan Kejriwal V/s. L & T Parel Project and by order dated 13<sup>th</sup> August, 2018 the Complainant therein was declined concession as desired by him. At the same time, the Ld. Adjudicating Officer has referred the matter to the expert i.e Technical Officer of the Authority who examined the documents of the flat, heard the parties and filed a report. This has been done in the case of said Archana Kejriwal. The request of the Promoter is, that the same scale should have been applied. There was contest to this suggestion. However, I do not see anything wrong in the Promoter asking same treatment in tune with order dated 13<sup>th</sup> August, 2018 in the matter of Archana and Satyanarayan Kejriwal. The order under challenge indeed is exhaustive and well reasoned, but for want of expert report which may turn the table, calls for interference.




5. The submissions from the Allottee i.e. subsequent Allotment dated 29<sup>th</sup> June, 2017 is after coming into force of RERA and consequently the definition of Sec. 2(a) of carpet area under RERA shall be applicable is kept open to be adjudicated upon by the Ld. Adjudicating Officer when the report from the expert i.e. the Technical Officer is received. No other merits in the project by the Promoter is discussed. All points are kept open.

**:- ORDER :-**

1. The appeal is partly allowed.
2. Matter is relegated to the Adjudicating Officer and Ld. Member, MahaRERA, Mumbai to ensure getting opinion from Technical Officer of the Authority by giving audience to the parties and then pass appropriate order, as was done on 13<sup>th</sup> August, 2018.
3. No costs.
4. The parties to appear before the Ld. Member and Adjudicating Officer on 15<sup>th</sup> November, 2018 without further notice.
5. This judgement shall not be treated as a precedent by other Allottees.

Dictated and pronounced in open Court today.

Place: Mumbai  
Dated: 24th October, 2018

  
(K. U. CHANDIWAL, J.)  
President,  
Maharashtra Revenue Tribunal,  
Mumbai  
& I/c. Maharashtra Real Estate  
Appellate Tribunal, (MahaRERA),  
Mumbai