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**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI
MISC. APPLICATION NO.614 OF 2019
IN
APPEAL (VC) NO. AT006000000052078**

Hava Hira Co-operative Housing Society]
Limited, 2nd Nadiadwala Colony, Off S.V.Road] Appellant
Malad (West) Mumbai 400 064]

-VS-

1] Hav Hira Flat Purchasers Association]
A-205, Sahakar Apartment, Opp. Kalakendra]
Showroom, Above Desai hospital, S.V.Road,]
Malad (West) Mumbai 400 064]
]
2] Patel Developers]
3] Mr. Hifzur Rehman Patel] Respondents.
4] Mr. Zakaria Abdul Patel]
5] Mr. Sayeed Abdul Rehman Patel]
6] Mr. Sadiq Abdul Rehman Patel]
Plot No.7, Street No.91/3, Gaiwadi]
Industrial Estate, Off S.V. road, Goregaon]
(West) Mumbai 400 062]

Mr. Rashmin Khandekar, Advocate, for appellant.
Mr. Bishwajeet Mukherjee, Advocate, for respondent No.1.
Mr. Girish Kedia, Advocate, for respondent Nos. 2 to 6.

**CORAM : INDIRA JAIN J., CHAIRPERSON &
S.S. SANDHU, MEMBER (A)**

DATE : 6th JANUARY, 2021

(THROUGH VIDEO CONFERENCE)

ORDER [PER: INDIRA JAIN, J.]

MISC. APPLICATION NO.614 OF 2019

Appellant Co-operative Housing Society is seeking stay to the effect, implementation, operation and execution of impugned interim order dated 27th November, 2019, passed by MahaRERA in Complaint No.CC006000000141018. By the said order, learned Chairperson, issued the following directions :-

- i] Respondent (1) is directed to upload the Annual Audit Report of Statutory CA – Form 5 for FY 17-18 and FY 18-19 within 15 days from the date of this order failing which the project shall be liable for contravention of provisions under Section 7 of the Real Estate (Regulation and Development) Act, 2016.
- ii] Respondent (1) shall handover the list of all allottees of the said project to the Respondent (2) Complainant within 15 days from the date of the said order.
- iii] Respondents shall convene a meeting of all the allottees, consisting of all the members of the owner co-operative housing society and all the purchaser allottees, within 45 days from the date of this order,

to have a resolution passed in majority to form one entity and to envisage the way forward for project completion.

- iv] Respondents are restrained from creating any third party rights in the said project till further directions.

2] Facts giving rise to the instant application may be stated in brief as under:-

Appellant Hava Hira is a Co-operative Housing Society, respondent No.1 is Association of 8 apartment purchasers in the project, "Hava Hira CHS", situated at Borivali, Mumbai, respondent No.2 is promoter and respondent Nos. 3 to 6 are it's partners.

3] Admittedly appellant is the owner of land. Appellant granted development rights with respect to the said land to respondent No.2 and accordingly development agreement was executed on 10th February, 2012. Under the said development agreement promoter was entitled to sell free sale components on ownership basis in the new building to be constructed. Eight flat purchasers who are members of respondent No.1 Association purchased flats in the residential project, "Hava Hira" and formed an Association of allottees. According to Association, promoter committed date of completion of project on or about August 2015 and