

**IN THE KARNATAKA REAL ESTATE APPELATE TRIBUNAL,
BENGALURU**

DATED THIS THE 08th DAY OF JANUARY 2020

PRESENT

HON'BLE MR JUSTICE B SREENIVASE GOWDA, CHAIRMAN

AND

SRI K P DINESH, JUDICIAL MEMBER

AND

SRI P S SOMSHEKHAR, ADMINISTRATIVE MEMBER

APPEAL (K-REAT) NO. 126/2020

(OLD RERA. APL No.164 of 2019)

BETWEEN-

Parkway Homes LLP
No. 10, 5A Block, 17th B Main Road
Koraomangala Bengaluru-560095
Represented by its Authorised Representative
Komala K. Reddy
D/o G.V.K Reddy,
Aged about 40 years

:APPELLANT

(By Sri Anand, for Sri Samarth Shreedhar Advocate for M/S shetty and Hegde associates)

AND

1. Vishakha Priyadarshini
E3, Rank Residency,
6th "G" Cross,
Balaji Layout,

Kaggadasapur
Bengaluru-560 093

- 2.** Real Estate Regulatory Authority
2nd floor, sliver Jubilee Block ,
Unity Building, CSI Compound,
3rd Cross, Mission Road
Bengaluru-560 027
Represented by its Secretary

:RESPONDENTS

(Sri Nishanth Kadur Advocate, for M/S Keystone Partners for
Respondent-1
(Sri M V Prashanth Advocate for Respondent-2)

This Appeal was filed under Section 44 of the Real Estate
(Regulation And Development) Act, 2016 before the Karnataka
Appellate Tribunal, Bengaluru, to set aside the order dated
22nd July, 2019 passed by the Adjudicatory Officer- RERA
respondent 2. This appeal was transferred to this Tribunal on
02.01.2020 and renumbered as Appeal No. 126/2020 (K-REAT).

This appeal coming on for orders this day, the Chairman,
made the following:

JUDGMENT

Sri Anand for Sri Samarth Shreedhar, learned Counsel appears for
Appellant.

Sri Nishanth Kadur, learned counsel appears for R1 and
Sri M.V. Prashanth learned Counsel appears for R2.

Heard the learned counsel appearing for the parties.

Sri Nishanth Kadur, learned Counsel appearing for the 1st respondent has filed a copy of the order dated 18.11.2019 passed by the Karnataka Appellate Tribunal (for short, KAT) in RERA Appeal Nos.161/19, C/W 163, 165, 166, 169 to 173, 175 and 176/2019 and brought to our notice that the issue involved in this matter has already been decided in favour of the first Respondent upholding the view taken by the learned Adjudicating Officer, wherein he has rejected the application filed by the Appellant under section 8(1) of the Arbitration and Conciliation Act, holding that there is no need to refer the matter to arbitration.

Sri M V Prashanth, the learned Counsel for the 2nd Respondent, supports the submission made by the learned Counsel for the 1st Respondent.

Even though Sri Anand for Sri Samarth Shreedhar, the learned counsel, appearing for the Appellant submits that his senior wants to argue the matter, however he does not dispute the factual aspects submitted by the learned Counsel for the first Respondent.

We have gone through the order dated 18th November, 2019 passed by the KAT in a batch of appeals. The said appeals were preferred against the order of the Adjudicating officer rejecting similar applications filed by the Appellants in similar matters therein raising preliminary objection that as per the agreement entered into between the appellants and private respondents in those appeals, if any dispute arises between them,

they can invoke the arbitration clause under Section 8(1) of the Arbitration and conciliation Act, and therefore, the complaint filed by the applicant before the Adjudicating Officer was not maintainable and the Adjudicating Officer had no jurisdiction to entertain the said complaint, and prayed for dismissal of the complaint made by the applicant. The KAT dismissed the appeals and upheld the order passed by the learned Adjudicating Officer.

In the present case, the learned Adjudicating Officer after hearing the learned counsel appearing for the appellant as well as the 1st Respondent had rejected the application filed by the appellant under Section 8(1) of the Arbitration and Conciliation Act holding that there is no need to refer the matter to arbitration and has further held that he has got jurisdiction to entertain the complaint made by the first respondent.

The Appellant being aggrieved by the said order of the Adjudicating Officer, had preferred the above appeal before the KAT, which is now transferred to this Tribunal.

Learned Counsel for the Respondents 1 & 2 have also brought to our notice that against the said view of the Adjudicating Officer in similar matters, the aggrieved parties therein had challenged the same by preferring Writ Petition before the Hon'ble High Court of Karnataka, Bengaluru. The Hon'ble High Court remanded the matter to the KAT for

consideration and, on remand, the KAT dismissed the said appeals and upheld the view taken by the learned Adjudicating Officer.

For the foregoing reasons, we are of the view that there is no point in keeping the matter pending, and accordingly, we dismiss the appeal. No order as to costs.

**Sd/-
CHAIRMAN**

**Sd/-
JUDICIAL MEMBER**

**Sd/-
ADMINISTRATIVE MEMBER**