

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

DATED THIS THE 06TH DAY OF OCTOBER 2020

PRESENT

HON'BLE SRI K P DINESH, JUDICIAL MEMBER

AND

HON'BLE SRI P S SOMASHEKAR, ADMINISTRATIVE MEMBER

APPEAL (K-REAT) NO. 233/2020

(OLD RERA. APL No.304 of 2019)

BETWEEN:

M/s NHDPL Enterprises Private Limited,
Earlier Nitesh Housing
Developers Private Limited,
Having its registered office at
No.110, Andrews Building,
M.G. Road, Bengaluru – 560 001
Represented by its authorized representative
Sri Prasad Badhya,
Son of Sri Seetarama Badhya,
Aged about 39 years.

:APPELLANT

(By Sri Samarth Sridhar for M/s Shetty & Hegde Associates, Advocate)

AND

1. Sri Prakash Narasimha Naik,
Son of Sri H T N Murthy,
Aged about 57 years,
 2. Smt Deepa Prakash Naik,
Wife of Sri Prakash Narasimha Naik,
Aged about 52 years,
- Both are residing at No.A-502,
Kumar Sakeet, Near Vitthal Mandir,
Karvenagar, Maharashtra,

Pune – 41052.

- 3. Adjudicating Officer**
Real Estate (Regulation and Development)
Regulatory Authority,
No.1/14, Ground Floor,
Silver Jubilee Block,
Unity Building, CSI Compound,
3rd Cross, Mission Road,
Bengaluru-560 027.

:RESPONDENTS

(Sri S N Ashwathnarayan, Adv., for R3)

This Appeal is 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 08th April, 2019 in CMP/181207/0001730 passed by the Adjudicating Officer, RERA Respondent No.3. This appeal was transferred to this Tribunal on 02.01.2020 and renumbered as Appeal No.(K-REAT) 233/2020.

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

JUDGMENT

Sri Samarth Sridhar learned counsel for the Appellant is present and submitted that the appellant require another 8 weeks time to comply with the office objection regarding statutory deposit of 30% of the penalty amount. Sri Gopinath, vice president (Legal) of the appellant company is also present.

Learned Counsel Sri Sudhindra for Sri S.N Ashwathnarayan Advocate for R3 and submits that sufficient opportunity has been

given to the appellant to comply with the office objection. In spite of giving sufficient opportunity, the appellant has not complied with the provision of Section 43 (5) of the Act and the appeal is liable to be rejected for non-compliance of office objection.

Admittedly, the appeal was filed on 17.12.2019 before the Interim Tribunal (KAT) Bangalore and subsequently transferred to this Tribunal. The learned counsel for the appellant goes on praying time to comply the office objection regarding the deposit of 30% of the penalty amount on one pretext or the other. However till date the office objections has not been complied and case is today posted as last chance to comply with Section 43 (5) of the Act. Hence, we are of the view that there is no good ground to grant further time and accordingly, appeal is rejected for non-compliance of Section 43 (5) of the Act.

Sd/-
HON'BLE JUDICIAL MEMBER

Sd/-
HON'BLE ADMINISTRATIVE MEMBER