

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

**DATED THIS THE 23<sup>RD</sup> DAY OF DECEMBER 2020**

**PRESENT**

**HON'BLE SRI JUSTICE B SREENIVASE GOWDA, CHAIRMAN**

**AND**

**HON'BLE SRI K P DINESH, JUDICIAL MEMBER**

**AND**

**HON'BLE SRI P S SOMASHEKAR, ADMINISTRATIVE MEMBER**

**APPEAL (K-REAT) NO.346/2020**

**BETWEEN:**

M/s Adarsh Developers  
A Partnership Firm registered under  
Indian Companies Act, 1932,  
Having its registered office at  
No.10, Vittal Mallya Road,  
Bengaluru – 560 001.  
Rep by its Partner-  
Mr B M Karunesh

**:APPELLANT**

(By Sri V B Shivakumar, Advocate)

**AND**

1. The Adjudicating Officer,  
Real Estate Regulatory Authority,  
No.1/14, Ground Floor, Silver Jubilee Block,  
Unity Building, CSI Compound,  
3<sup>rd</sup> Cross, Mission Road,  
Bengaluru-560 027
2. Mr.Lalitha Murthy,

Aged about 70 years,  
Wife of Mr. N.V. Srinivasamurthy,  
No.C-30, Shankarpark,  
Basavanagudi,  
Bengaluru – 560 004.

3. Mr Abhishek Narsipur  
Aged about 41 years,  
Son of Mr. N.V. Srinivasamurthy,  
No.C-30, Shankarpark,  
Basavanagudi,  
Bengaluru – 560 004.

**:RESPONDENTS**

(M/s Trial Base, Advocate, for R2 & R3)

This Appeal is filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016, before this Tribunal to set aside the order dated 24<sup>th</sup> January, 2020 in CMP/UR/190822/0003980 passed by the Adjudicating Officer, RERA Respondent.

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

**JUDGMENT**

The appellant has preferred this appeal challenging the impugned order passed by the learned Adjudicating Officer, which reads as under:

"a. The complaint filed by the complainant bearing No.CMP/UR/190822/0003980/ is hereby allowed in part.

b. The developer is hereby directed to give compensation @ 2% above the MCLR of SBI on the amount paid by the complainant commencing from February 2018 till the receipt of Occupancy certificate.

c. In case the developer fails to obtain the Occupancy Certificate within 6 months it is ordered to return the whole amount received from the complainant with interest @ 9% on the respective amount paid on the respective date till 30/04/2017 and @ 2% above the MCLR of SBI commencing from May 2017 till realization.

d. The developer is hereby directed to pay Rs.5,000/- as cost of the petition."

2. Subsequent to the filing of this appeal, the appellant who is a developer of a real estate project by name 'ADARSHA MILLENEA" and contesting Respondents 2 & 3, who are allottees of a flat constructed by the appellant in the said project, after due discussion and deliberation of their dispute involved in this appeal, with the assistance of the learned counsel appearing for them, have got their dispute settled amicably by reducing the terms and conditions of settlement into writing by way of filing a detailed Compromise Petition under Section 53 of the Real Estate ( Regulation & Development) Act, 2016 and Order 23 Rule 3 of the Code of civil Procedure,1908.

3. The compromise petition and the affidavit verifying the contents of the compromise petition signed by the appellant and contesting Respondent Nos.2 and 3 and the learned counsel appearing for the respective parties are taken on record.

4. One Mr B.M.Karunesh, one of the partners of the appellant's partnership firm, is present.

5. On behalf of Respondents 2 and 3, Mr Abhishek Narsipur-R.3 is present in the court and he has produced the authorization issued by R.2 who is his mother, in his favour authorizing him to enter into this compromise on her behalf also. The authorisation letter issued by R.2 (Smt. Lalitha Murthy,) in favour of R.3 is taken on record.

6. The terms of the compromise petition were read over to the appellant (Mr. B.M. Karunesh) and Respondent No.3 who were present in the court in the language known to them. They have declared in unequivocal terms before us that they have entered into this compromise petition on their free will and volition and it is free from force, misrepresentation, coercion or undue influence and pray for disposal of the appeal in terms of the compromise petition.

7. We appreciate the co-operation extended by the parties and the learned counsel appearing for them in arriving at an amicable settlement and place the same on record.

8. In view of the submission made by the appellant and contesting respondents and the learned counsel appearing for them for disposal of the appeal in terms of the compromise petition, we accept the same and pass the following:

ORDER

- (i) The appeal stands disposed of in terms of the compromise petition.
- (ii) The compromise petition and affidavit verifying the contents of the compromise petition and the authorization letter issued by R2 in favour of R3 authorizing him to enter into this compromise on her behalf also are ordered to be treated as part and parcel of this Order;
- (iii) The Registry while issuing a copy of their order shall issue a copy of compromise petition, affidavit verifying the contents of the compromise petition, and the authorization letter issued by Respondent No.2 in favour of Respondent No.3 along with the copy of the order to the parties;
- (iv) The appellant and contesting Respondent No.2 and 3 shall perform and discharge their part of the obligations as incorporated in the compromise petition, in order to give effect to the compromise and to avoid unnecessary litigation in future.
- (v) In the event of either the appellant or contesting Respondents 2 and 3 failing to comply with any of the terms and conditions of compromise petition, it is always open for the opposite party to take steps as indicated in the compromise petition.
- (vi) As per the terms of compromise petition and a separate Memo filed, for refund of the amount the registry is hereby directed to refund the amount deposited by the appellant with this Tribunal while preferring this appeal in compliance of proviso to Section 43(5) of the RERA Act, along with interest, if any, accrued thereon in favour of the appellant -

M/s Adarsh Developers, by issuing a Demand Draft, within 15 days from the date of production of a copy of this order, and other necessary documents including the declaration with regard to TDS;

There is no order as to costs.

In view of disposal of the main appeal, all pending I.As, stand disposed of.

**Sd/-**  
**HON'BLE CHAIRMAN**

**Sd/-**  
**HON'BLE JUDICIAL MEMBER**

**Sd/-**  
**HON'BLE ADMINISTRATIVE MEMBER**

NOT AN OFFICIAL COPY