

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

DATED THIS THE 23RD DAY OF JULY, 2021

PRESENT

HON'BLE SRI B SREENIVASE GOWDA, CHAIRMAN

AND

HON'BLE SRI K P DINESH, JUDICIAL MEMBER

AND

HON'BLE SRI P S SOMASHEKAR, ADMINISTRATIVE MEMBER

APPEAL NO. (K-REAT) 385 /2020

BETWEEN:

M/s Shiv Parvathi Constructions
Rep. by its Proprietor,
Sri Mohan Mungale
S/o Sri Manohar M Munguale
Aged about 63 years,
No. A703, the Orchard, SR.No.24,
HMT Main Road,
Opp: Watch Factory, Jalahalli,
Bengaluru-560013
Project: "The Orchard"

...APPELLANT

(Rep. by Sri Harish H.V., Advocates)

1. Karnataka Real Estate Regulatory Authority,
Bengaluru.
Rep. by Secretary
No. 1/14, 2nd Floor
Silver Jubilee Park,
Unity Building, CSI compound,
3rd cross, Mission Road,
Bengaluru 560027.
2. Mr. Rajkumar M Patangi
S/o Mr Mullisiddappa
Aged about 45 years,
R/at. Flat No. E301,
The Orchard, SR.No.24,

HMT Main Road,
Opp: Watch Factory, Jalahalli,
Bengaluru-560013

...RESPONDENTS

(R.1 served, unrepresented)
(Sri Rajkumar M Patangi, R2-Party-In- Person)

This Appeal is filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016, before this Tribunal praying to call for the records and set aside the order dated 15th October 2018 passed in complaint No. CMP/180627/0000965 by respondent No.1-Adjudicating Officer, RERA.

This appeal, coming on for Admission this day, Hon'ble Chairman delivered the following:

J U D G M E N T

The appellant, who is a developer of a real estate project known as "THE ORCHARD" has preferred this appeal challenging the order passed by the learned Adjudicating Officer dated 15th October, 2018 in CMP/180627/0000965, which reads thus:

"The complaint No. CMP/180627/0000965 has been closed on account of the Memo of Settlement filed on 10.10.2018"

2. The learned counsel for the appellant submits that the appellant and Respondent No. 2-allottee, after due deliberation and discussion of their dispute pertaining to the complaint in CMP/180627/0000965 and this appeal, have got the same settled amicably by reducing the terms and

conditions of settlement into writing by way of a detailed compromise petition under Order 23 Rule 3 of CPC.

3. The compromise petition signed by the appellant-developer, 2nd respondent-allottee and the learned counsel for the appellant, is taken on record. The terms of compromise were read over to the parties in the language known to them and they have submitted that the compromise petition is entered into between them on their free will and volition and there is no force, misrepresentation, fraud, undue influence or coercion and they submit that the appeal may be disposed of in terms of compromise petition.

4. It is made clear that the compromise arrived at between the parties is restricted only to delay compensation which is the subject matter in CMP/180627/0000965 and this compromise will not come in the way of Respondent No.2-allottee pursuing his complaint in CMP 5858/2020 which is filed before RERA seeking a direction to the appellant to provide amenities as agreed in the agreement of sale entered into between the parties.

5. In view of the above submissions, we pass the following:

ORDER

- i) Appeal is disposed of in terms of the compromise petition;

- ii) Compromise petition filed by the parties today shall be treated as part and parcel of this order;
- iii) Parties shall discharge their respective obligations enunciated in the compromise petition in order to give effect to the compromise and to avoid unnecessary litigation in future;
- iv) In view of disposal of the appeal in terms of compromise petition, pending I.As, if any, stand disposed of as they do not survive for consideration;
- v) That out of the amount deposited by the appellant with this Tribunal while preferring the appeal in part compliance of proviso to Section 43(5) of the RERA Act, Registry is directed to release a sum of Rs.3,00,000/- (Rupees Three lakhs) along with proportionate interest accrued thereon, if any, in favour of the 2nd respondent-allottee and return the balance amount with proportionate interest accrued thereon, if any, to the proprietor of the appellant-company, who has signed the appeal memo and the Vakalath, after following the procedure required for the same.

- vi) Office while issuing certified copy of the order, at the instance of any of the parties, shall issue the same along with copy of the compromise petition;
- vii) Registry is directed to comply with provision of Section 44(4) of the Act and to return the record to RERA, if received.

No order as to costs.

Sd/-

HON'BLE CHAIRMAN

Sd/-

HON'BLE JUDICIAL MEMBER

Sd/-

HON'BLE ADMINISTRATIVE MEMBER