

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

**DATED THIS THE 17<sup>th</sup> DAY OF NOVEMBER, 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) 388/2020**

**BETWEEN:**

M/s Shriram Properties Limited  
No. 40/43, 8<sup>th</sup> Main, 4<sup>th</sup> Cross,  
RMV Extension, Sadashiv Nagar,  
Bengaluru-560080  
Represented by its Authorized Signatory  
Mr. Naveen Kumar J

**...APPELLANT**

(Rep. by Sri.Nirupan Gowda for M/s JSM Law Partners, Advocates)

**AND**

1. The Karnataka Real Estate Regulatory Authority,  
2<sup>nd</sup> Floor, Silver Jubilee Block,  
Unity Building, CSI compound,  
3<sup>rd</sup> Cross, Mission Road  
Bengaluru-560 027.  
Represented by its Secretary.

2. Mr. Rajadurai Swamikesavan,  
S/O Swamikesavan Venkatasamy,  
Aged about 51 years,  
Residing at A301, Keshav Dugar Apartments,  
1/30 East Avenue, Keshavaperumalpuram,  
RA Puram, Chennai, Tamil Nadu-600028,

**...RESPONDENTS**

(R-1 RERA served, unrepresented  
R-2- Party-in-person )

This Appeal is filed under Section 44 (1) of the Real Estate (Regulation and Development) Act, 2016, before this Tribunal praying to call for the records and to allow this appeal and set aside the order dated 30<sup>th</sup> May 2020 passed in CMP/190924/0004282 passed by respondent No.1-Adjudicating Officer, RERA, Bengaluru.

This appeal, coming on for admission today, the Hon'ble Chairman delivered the following:

### **J U D G M E N T**

The appellant, who is promoter of a real estate project known as "SRIRAM SUMMITT" has preferred this appeal challenging the impugned order dated 30<sup>th</sup> May 2020 passed by the learned Adjudicating Officer, directing the appellant to pay delay compensation by way interest at 2% above MCLR of State Bank of India on the amount paid towards sale consideration to the allottee etc.,

2. 1<sup>st</sup> respondent RERA though served remain unrepresented.  
2<sup>nd</sup> respondent allottee appeared as party-in-person.

3. Subsequent to filing of this appeal, the appellant/promoter and the 2<sup>nd</sup> respondent/allottee, after due deliberation and discussion of their dispute pertaining to the subject matter of complaint No. CMP/190924/0004282 and this appeal got the same settled amicably by reducing the terms of settlement into writing by way of filing a joint memo dated 17.11.2021 signed by the authorized signatory of the

appellant, learned counsel for the appellant and 2<sup>nd</sup> respondent/allottee who appears party-in-person. The same is taken on record.

4. The terms of Joint Memo are read over to the Appellant and 2<sup>nd</sup> respondent who are present in the court, in the language known to them and they have stated that the Joint Memo entered into between the promoter and allottee is on their free will and volition and there is no force, misrepresentation, fraud, undue influence or coercion and pray the Tribunal that the appeal may be disposed of in terms of the Joint Memo.

5. That as per the terms and conditions of the joint memo the 2<sup>nd</sup> respondent/allottee has received a sum of Rs.2,00,000/-(Two lakhs only) vide cheque No.003630 dated 10.11.2021 drawn on HDFC Bank, Sadashivanagar Branch, Bengaluru-560080 from the appellant towards full and final settlement of the delay compensation awarded to him under the impugned order.

5. In view of the above submissions and the terms of the Joint memo, we pass the following:

### **ORDER**

- 1) Appeal stands allowed in terms of the Joint Memo filed in the court today;
- 2) The Joint Memo is ordered to be treated as part and parcel of the order passed today;

- 3) The settlement arrived at today is subject to encashment of the cheque issued by the appellant/promoter in favour of 2<sup>nd</sup> respondent/allottee in full and final settlement of the delay compensation awarded by the Adjudicating Officer;
- 4) Appellant and Respondent No.2 shall discharge their respective obligations incorporated in the Joint Memo in order to give effect to the compromise and to avoid unnecessary litigation in future;
- 5) In view of disposal of the Appeal in terms of Joint Memo, pending I.As, if any do not survive for consideration and shall stand disposed of;
- 6) Registry, while issuing certified copy of today's order, at the instance of the parties, shall issue the same along with the copy of the Joint Memo;
- 7) Respondent No.2 shall confirm encashment of cheque to the appellant by mail and thereafter appellant shall file a memo for releasing the amount in this Tribunal in favour of the appellant;
- 8) If the cheque issued by the appellant for Rs.2,00,000/- (Two lakhs only) in favour of the 2<sup>nd</sup> respondent is not honoured and on R.2 bringing the said fact to the notice of this Tribunal, Registry shall release the said sum of Rs.2,00,000/- (Two lakhs only) in favour of R.2-allottee out of the amount deposited by the appellant while preferring the appeal in part compliance of proviso to Section 43(5) of the RERA Act in favour of respondent No.2 and release the remaining amount with interest in favour of the appellant company Shriram Properties Limited along with

interest if any thereon by issuing a cheque or D.D and shall hand over the same to the Authorized signatory who has signed the appeal memo and vakalath, after following due procedure;

- 9) In the event of appellant filing a memo with the signature of R.2/allottee or enclosing his e-mail to the effect that the cheque in his favour by the appellant is honoured, the Registry shall release the entire amount along with interest if any accrued thereon in favour of the appellant by issuing a cheque/DD in the name of the appellant company-Shriram Properties Limited and hand over the same to the authorized signatory of the appellant-company, who has signed the memorandum of appeal and vakalath after following the procedure required for the same;
- 10) Registry is hereby directed to comply with the 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**