

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

**DATED THIS THE 24<sup>TH</sup> DAY OF JANUARY, 2023**

**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) 115/2022**

**BETWEEN:**

M/s Bharatiya Urban Private Limited,  
(Formerly known as  
Bharatiya City Developers Private Limited)  
Having office at No.1/5, Palace Road,  
Bangalore.

Represented By its Authorised Signatory,  
Mr. Nandeesh S.

\*Presently at:

Bharatiya Urban Private Limited,  
100/1, Anchorage-1,  
Richmond Road,  
Bengaluru – 560 025.

**...APPELLANTS**

{\*Amended VCO dated 09.12.2022}

(Sri Mukund N Koate for Giridhar & Co., Advocates)

**AND**

1. Karnataka Real Estate Regulatory Authority,  
Represented by its Secretary.  
Having office at 1/14, 2<sup>nd</sup> Floor,  
Silver Jubilee Block,  
Unity Building, CSI Compound,  
3<sup>rd</sup> Cross, Mission Road,  
Bengaluru 560 027,

2. Dr. Avinash DB  
Aged Major,  
Residing at Shanthala,  
1<sup>st</sup> Cross, Gandhi Nagar,  
Shimoga – 577 201.

**...RESPONDENTS**

(Sri Robert D'Souza Advocate for R.1 RERA  
Smt. Smitha R B, Advocate for R.2)

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 13.09.2022 passed in CMP/220106/0008769 by respondent No.1- RERA Authority.

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

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

The appellant who is the Promoter of a real estate project namely, "Bhartiya Leela Residences" has preferred this appeal challenging the impugned order passed by the Authority dated 13.09.2022 in CMP/220106/0008769.

2. Sri Robert D'souza learned counsel for R1-RERA has filed Vakalath and submits that RERA he has objection for the appellant and contesting respondent No.2 to settle their dispute between themselves and for disposing the appeal in terms of the Joint Memo.

3. Subsequent to filing of the appeal, appellant/promoter and Respondent No.2-allottee, after due deliberation and discussion of their dispute pertaining to the complaint in CMP/220106/0008769 and this appeal, have got the same settled amicably by reducing the terms and conditions of settlement into writing by way of filing a Joint Memo. The Joint Memo signed by the Mr. Nandeesh S, Authorized Signatory of the appellant-company, Dr Avinash, 2<sup>nd</sup> Respondent and learned counsel for the appellant and 2<sup>nd</sup> respondent-allottee, is taken on record.

4. The terms of Joint Memo were read over to the parties in the language known to them and they have submitted that the Joint Memo entered into between them is 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 Joint Memo.

5. In addition to this, learned counsel for the appellant submitted that parties have signed the Joint Memo in their presence and that the appeal may be disposed of in terms of the Joint Memo.

6. In the Joint Memo it is stated that the appellant has deposited a sum of Rs.5,38,26,897/- (Rupees Five Crores Thirty Eight Lakhs Twenty Six Thousand Eight Hundred and Ninety Seven Only) with this Tribunal at the time of preferring the appeal in compliance of proviso to Section 43(5) of the RERA Act. Out of said amount, a sum of Rs.4,41,75,000/- (Rupees Four

Crores Forty One Lakhs Seventy Five Thousand Only) shall be released in favour of the 2<sup>nd</sup> Respondent by issuing banker's cheque in the name of 2<sup>nd</sup> Respondent and the balance sum of Rs.96,51,897/- (Rupees Ninety-Six Lakhs Fifty One Thousand Eight Hundred and Ninety Seven only) along with interest, if any, accrued thereon, shall be refunded to the appellant-promoter. The 2<sup>nd</sup> Respondent immediately after withdrawing the amount of Rs.4,41,75,000/- (Rupees Four Crores Forty One Lakhs Seventy Five Thousand Only) shall deposit the same to his loan account No.0524101043171, IFSC: CNRB0000524, with Canara Bank, S.M Circle branch, Shimogga within one week from date of receipt of the cheque from the Registrar of this Tribunal and intimate the said fact to the appellant and he shall return the original agreement of sale entered by him, to the promoter.

7. In view of the above submissions, the following:

**ORDER**

- i) Appeal is disposed of in terms of the Joint Memo;
- ii) The Joint Memo filed by the parties is ordered to be treated as part and parcel of this order;
- iii) Parties shall discharge their respective obligations enumerated in the Joint Memo 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 the Joint Memo, pending I.As, if any, stand disposed of as they do not survive for consideration;

- v) The Registry is hereby directed to release a sum of Rs.4,41,75,000/- (Rupees Four Crores Forty One Lakhs Seventy Five Thousand Only) out of the amount deposited by the appellant with this Tribunal while preferring the Appeal in compliance of proviso to Section 43(5) of the Act, by issuing either a cheque or DD in the name of the 2<sup>nd</sup> Respondent-allottee and refund a sum of Rs.96,51,897/- (Rupees Ninety-Six Lakhs Fifty One Thousand Eight Hundred and Ninety Seven only) along with interest, if any, accrued thereon to the appellant-company and shall hand over the cheque or DD to the Authorized signatory of the appellant-company who has signed the Vakalath, appeal memo and Joint Memo on furnishing necessary documents and by following due procedure;
- 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 Joint Memo;
- vii) Registry is directed to comply with provision of Section 44(4) of the Act and to return the records to RERA, if received.

No order as to costs.

**Sd/-**  
**(JUSTICE B SREENIVASE GOWDA)**  
**CHAIRMAN**

**Sd/-**  
**(K P DINESH)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(P S SOMASHEKAR)**  
**ADMINISTRATIVE MEMBER**