

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

DATED THIS THE 24TH DAY OF FEBRAURY, 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

FR No. (K-REAT)-42/2023

BETWEEN:

1. Sri K.V Naidu
(Kola venkat Rama Naidu)
S/o K.C. Naidu,
Aged about 55 years,
R/at No.13, 4th Cross,
1st Main Road, R.M.V. 2nd Stage,
Dollars Colony, Bangalore North,
Bengaluru-560 094.

: Appellant

(By Sri Amaresh C.V, Advocate)

AND:

1. Arindam Guha,
103, Shree Apartment,
S.P. Verma Road,
Bangalore -570011
2. Shriram Properties Pvt. Ltd.,
No.40/42, 8th Main, 4th Cross,
Sadashivanagar,
Bengaluru-560094.
3. Karnataka Real Estate Regulatory Authority,
No.1/14, 2nd Floor, Silver Jubilee Block,
Unity Building Backside,

CSI Compound,
3rd Cross Road, Mission Road,
Bengaluru-560 027.
Represented by its Secretary

: Respondents

This appeal is filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 praying to set aside the order dated 29.04.2022 passed in complaint no. CMP/190725/0003461 by the RERA Authority-R3.

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

ORDER

The appellant who is the land owner of a property bearing Sy. Nos. 64, 65, 66, 68 and Old Sy No.109, New Sy. No. 132 situated at Singapura Village, Yelahanka Hobli, Bangalore North Taluk, Bangalore entered into Joint Development Agreement with the 2nd Respondent-promoter for development of a Real Estate Project known as "SAMEEKSHA".

2. The 1st respondent who is an allottee of 4 flats in the said project, entered into an Agreement for Sale with the promoter for purchase of the said flats. That in spite of several notices and mails by the allottees requesting the promoter to deliver possession of the flats by executing registered sale deeds, the Promoter failed to do so. Hence, the 1st respondent-allottee filed a complaint before the Authority for delivery of possession of flats and execution of registered sale deeds.

3. The Authority, after hearing the parties and perusing the documents, by order dated 29.04.2022 allowed the complaint and directed the promoter to return the balance amount of Rs.69,98,247/- to the complainant within 90 days from the date of this order, failing which the complainant is at liberty to enforce this order in accordance with law. Aggrieved by the said order, the appellant-land owner has preferred this appeal praying to set-aside the impugned order.

4. The above appeal is filed on 08.02.2023 and the office has raised several objections including non-deposit of statutory amount as mandated under proviso to Section 43(5) of the Act. On 15.02.2023, at the request of the learned counsel for the appellant, sufficient time was granted to the appellant to comply office objections, specially making pre-deposit of statutory amount as mandated under proviso to Section 43(5) of the Act with a direction to the Registry to list the appeal for orders on 24.02.2023.

5. Today, the learned counsel for the appellant has filed a memo praying the Tribunal to dismiss the appeal as withdrawn with liberty to file a revision petition before the Authority. Memo is taken on record.

6. Accordingly, appeal is dismissed as withdrawn. It is needless to say that it is always open for the appellant to prefer revision petition before the Authority, if law permits him to do so.

7. Therefore, in view of the memo filed by the learned counsel for the appellant, we pass the following:

ORDER

- (1) Appeal is dismissed as withdrawn;
- (2) In view of dismissal of the main appeal, all pending I.A.s if any, are rejected as they do not survive for consideration;
- (3) Registry is directed to comply with the provisions of Section 44(4) of the Act and to return the records, if any, to the RERA.

**Sd/-
HON'BLE CHAIRMAN**

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

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