

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

DATED THIS THE 16TH DAY OF JUNE, 2023

PRESENT

HON'BLE SRI K P DINESH, JUDICIAL MEMBER

AND

HON'BLE SRI P S SOMASHEKAR, ADMINISTRATIVE MEMBER

APPEAL NO. (K-REAT)43/2023

BETWEEN:

M/s Prestige Estates Projects Ltd.,
A company incorporated under the
Company Act, 1956, having registered
Office at No.19, 2nd Floor, Prestige Falcon Tower,
Brunton Road, Criaig Park Layout, Ashok Nagar,
Bangalore – 560 025.

Represented by its Authorized Signatory
Mr.Veerendra Kumar

...APPELLANT

(By Sri Mohumed Sadiqh for KV Legal, Advocate)

AND

1. Mr. Mahaveer L J
Aged about 41 years,
S/o Mr.Jayakumar,
R/at No.241, 1st Floor,
37th A Cross, Jayanagar,
Bengaluru Urban – 560 069.
2. The Karnataka Real Estate Regulatory Authority,
No. 1/14, Ground Floor,
Silver Jubilee Block, Unity Building,
C.S.I Compound, 3rd Cross,
Mission Road, Bengaluru 560 027.
By its Secretary.

...RESPONDENTS

(Miss Vathsala G, Advocate for R1
*Sri Rajashekar K, Adv for R2-RERA)

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 09th November 2022 passed by the 2nd Respondent- Authority, in CMP/200111/0005193.

This appeal coming on for hearing this day, Hon'ble Judicial Member delivered the following:

J U D G M E N T

The appellant-promoter of a Real Estate Project is engaged in the business of developing real estate projects and one such project is **"PRESTIGE BAGAMANE TEMPLE BELLS"** developed by the **"M/s Prestige Estates Projects Limited"** promoter situated at Hosakeralli Village, Uttarahalli Hobli, Bangalore South Taluk, Bengaluru District, Karnataka.

2. The 1st respondent-allottee being desirous of purchasing a flat bearing No.4113, on the 4-Tower/Block, Eleventh Floor, in the said project, entered into an Agreement for Sale and Construction Agreement both dated 07.01.2016 with the promoter. However, as there was delay in completion of the project and handing over possession of the flat on time to the allottee within the stipulated period as agreed between the parties in the agreement of sale, the allottee filed a complaint before RERA seeking compensation by way of interest for the delayed period.

3. The RERA Authority, after hearing the complainant and the learned counsel for the promoter, perusing the records and documents

furnished in the case, passed the impugned order. The operative portion of the said order reads as under:

"In exercise of the powers conferred under Section 31 read with Section 18 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No. CMP/200111/0005193 is hereby allowed.

1. The Respondent is here by directed to pay delay period interest to the complainant calculated at the rate of SBI MCLR + 2 per cent per annum from 31.12.2018 till 06.06.2019.

2. The respondent is directed to pay delay period interest to the complainant within 60 days from the date of this order, the complainants are at liberty to enforce the said order in accordance with law if the respondent fail to comply with the order."

4. The Promoter being aggrieved by the said order, has preferred this appeal challenging the impugned order dated 9th November 2022 passed by the 1st Respondent-Authority, in CMP/200111/0005193.

5. Sri Mohamed Sadiq B.A, learned counsel appeared for the appellant-promoter, Miss Vathsala G learned counsel appeared for the Respondent No. 1. Sri Rajashekhar learned counsel appeared for R2-RERA.

6. That 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/200111/0005193 and this

appeal, have got the same settled amicably out of court and filed a Joint Memo reporting settlement and have prayed to dispose of the appeal as settled out of court. Further the parties submit that the amount deposited by the appellant at the time of filing the appeal with accrued interest, if any, shall be refunded to the appellant as per the procedure.

7. The Joint Memo reporting settlement signed by the authorized signatory of the appellant company, learned counsel for the appellant and 1st respondent-allottee, is taken on record.

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

ORDER

- i) Appeal is disposed of as amicably settled out of court vide joint memo reporting settlement filed by the parties;
- ii) The Registry is hereby directed to release the amount deposited by the appellant with this Tribunal while preferring the Appeal in compliance of proviso to Section 43(5) of the Act, along with interest, if any, accrued thereon, by issuing either a Banker's cheque or DD in the name of the appellant-company and shall be handed over to the Authorized signatory/representative of the

appellant-company on furnishing necessary documents and by following due procedure;

iii) In view of disposal of the appeal in terms of Joint Memo, pending I.As, if any, stand disposed of as they do not survive for consideration;

iv) 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/-
HON'BLE JUDICIAL MEMBER**

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