

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**COMPANY APPLICATION NO. 311 OF 2019**  
**IN**  
**COMPANY PETITION NO. 947 OF 2014**

Synergy Construction Partner Shantinarayan Rathi	...Applicant
<i>In the matter between</i>	
Maharashtra Savings a Proprietary Firm	...Petitioner
<i>Versus</i>	
Official Liquidator of Mantri Realty Ltd	...Respondent

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**Mr Devendra Tiwari**, *i/b Law Chamber of Siddharth Murarka, for  
the Original Petitioner.*

**Mr Dipesh Siroya**, *for the Applicant.*

**Mr Dhoklawala**, *for the Official Liquidator.*

**Mr Shantinarayan Rathi**, *partner of the Applicant, present.*

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**CORAM: G.S. PATEL, J.**  
**DATED: 8th January 2020**

**PC:-**

1. Heard Mr Siroya for the Applicant. The reliefs that he seeks are chiefly in respect of four flats mentioned in prayer clauses (d) and (e) of the Company Application. These prayers read thus:

“(d) That the Hon’ble Court be pleased to direct the Official Liquidator not to take any further steps in respect of flat No. 101 and flat No. 102 respectively, both flats on 1st

floor “A” Wing in the building namely Mantri Serene S1 (S+18 Tower) standing on the plot bearing C.S. No. 827 – D.S. No. 239 (pt) of Village Malad (E), Film city Road, Dindoshi, Goregaon (East), Mumbai – 400 065 and flat No. 1405 “A” Wing in the building namely Mantri Serene S1 (S+18 Tower) standing on the land bearing C.S. No. 827 – D.S. No. 239 (pt) of Village Malad (E), Film city Road, Dindoshi, Goregaon (East), Mumbai – 400 065, Flat No. 201 in Building namely Mantri Serene “B” Wing on the land bearing C.S. No. 827 – D.S. No. 239 (pt) of Village Malad (E), Film city Road, Dindoshi, Goregaon (East), Mumbai – 400 065; pursuant to the order dated 4th February 2015 whereby Provisional Liquidator is appointed;

(e) That the Hon’ble Court be pleased direct the Provisional Liquidator to revoke the attachment in respect of flat No. 101 and flat No. 102 respectively, both flats on 1st floor “A” Wing in the building namely Mantri Serene S1 (S+18 Tower) standing on the plot bearing C.S. No. 827 – D.S. No. 239 (pt) of Village Malad (E), Film city Road, Dindoshi, Goregaon (East), Mumbai – 400 065 and flat No. 1405 “A” Wing in the building namely Mantri Serene S1 (S+18 Tower) standing on the plot bearing C.S. No. 827 – D.S. No. 239 (pt) of Village Malad (E), Film city Road, Dindoshi, Goregaon (East), Mumbai – 400 065; and Flat No. 201 in Building namely Mantri Serene “B” Wing on the land bearing C.S. No. 827 – D.S. No. 239 (pt) of Village Malad (E), Film city Road, Dindoshi, Goregaon (East), Mumbai – 400 065 attached pursuant to the Notice dated 4th February 2016.”

2. According to Mr Siroya, the Applicant, Synergy Construction, was a contractor for Mantri Realty Ltd, now in provisional liquidation inter alia for its project known as Mantri

Serene, at Goregaon. The Applicant remained unpaid. There are two agreements between the Applicant and Mantri Realty Ltd. These are Exhibits “B” and “C” to the Company Application.

3. For Flat Nos. 101 and 102 of Wing “A” in Mantri Serene, the Applicant seems to have registered agreements with a total consideration of Rs. 60 lakhs per flat. All that is annexed to the Company Application and the Affidavit in Support is a copy of a ledger account. This does not establish the outflow of funds from the bank account of the Applicant to the designated bank account of Mantri Realty, then not in provisional liquidation (at the time of the agreements).

4. Mr Siroya agrees that it will be necessary to show full payment of consideration for these two flats.

5. Flat Nos. 201B and 202B are in Mantri Serene, are what are called barter flats, allegedly agreed to be allotted by Mantri Realty to the Applicant in lieu of its unpaid dues. These are covered by an MoU dated 10th December 2012. That MoU will stand on a different footing and will have to be treated separately.

6. Flat No. 202 in “B” Wing is also claimed by the Applicant but it says that it has received Flat No. 1405 in “A” Wing in exchange. Particulars of these exchange documents are not available on record.

7. While no reliefs are claimed, I noticed from the Affidavit in Reply filed by the Official Liquidator that Flat No. 104 and 106 in “B” Wing are also barter flats covered by an MoU dated 30th September 2011. There was a balance payable for both of these and again particulars of these balance payments are not reflected in the records as they currently stand.

8. The Petitioning Creditor, Maharashtra Savings, also wishes to file an Affidavit in Reply. It contests these claims made by the Applicant.

9. I will give Mr Siroya an opportunity to place on record complete particulars of the financial transactions and particulars of the amounts said to have been paid by the Applicant into the bank account of Mantri Realty. By this, I mean there must be evidence in the form of a payment by demand draft with full particulars of a cheque showing a photocopy of the cheque as cleared or at a minimum of entries in a bank statement showing that the debit has been made to the Applicant’s bank account and to the credit whether by way of cheque or by online transfer to Mantri Realty’s bank account.

10. Mr Siroya states that the further Affidavit will be filed and served on or before 20th January 2020. The Affidavit of Maharashtra Savings will also be filed and served on or before 20th January 2020.

11. No Rejoinder without leave of the Court.

12. List the matter on 29th January 2020.

**(G. S. PATEL, J)**