

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION (LODGING) NO.11502 OF 2025

Mayur L. Desai
adult Indian inhabitant Aged – 44 years
residing at 501, Shree Swami CHS,
Plot No. 220 RDP-5
Charkop, Kandivali (West),
Mumbai – 400 067

... Petitioner

Versus

1. The State of Maharashtra,
Through Ministry of Law and
Judiciary, Mantralaya,
Mumbai 400 032.

2. Maharashtra Real Estate
Regulatory Authority
Housefin Bhavan, Plot No. C-21
E-Block, Near RBI,
Bandra Kurla Complex,
Bandra (East), Mumbai 400051.

... Respondents

Mr. Aseem Naphade a/w Ms. Chitragada Singh i/b Clove Legal
for the Petitioner

Mrs. Vaishali Choudhari, Addl. G.P a/w Mrs. Madhura
Deshmukh, A.G.P for the Respondent No.1-State

Mr. Ravi Adsure a/w Mr. A. K. Saxena for the Respondent No.
2- MahaRERA

Mr. Prakash Sabale, Secretary, MahaRERA is present

*CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.
RESERVED ON : 27th JUNE 2025
PRONOUNCED ON : 24th JULY 2025*

JUDGMENT (Per Revati Mohite Dere, J.) :

- 1 Heard learned counsel for the parties.

- 2 Rule. Learned Addl. G.P waives service on behalf of the respondent No.1-State and Mr. Adsure waives service on behalf of the respondent No.2-MahaRERA.

- 3 Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal.

- 4 By this petition preferred under Article 226 of the Constitution of India, the petitioner seeks the following substantive reliefs:

“a) a direction to the Respondent No.2-Maharashtra Real Estate Regulatory Authority to expeditiously and in

a time bound manner pass the final order in the execution/non-compliance proceedings being CC00600000195324/ APPL/NC/2 in the Complaint No. CC00600000195324 of 2020, which was reserved for orders on 21.03.2024;

b) to frame guidelines to streamline the process of execution of orders passed by Respondent No. 2- Maharashtra Real Estate Regulatory Authority including but not limited to (i) providing a mechanism for mentioning matters, (ii) conducting hearings immediately after filing of execution proceedings and (iii) expeditious disposal of execution proceedings.”

5 As far as prayer clause (a) is concerned, vide order dated 25th April 2025, we had, having regard to the fact that the petitioner's application was pending since March 2024, requested the respondent No.2-Maharashtra Real Estate Regulatory Authority ('MahaRERA') to dispose of the petitioner's execution applications and pass final orders within a period of six weeks.

6 As far as prayer clause (b) is concerned, learned counsel appearing for respondent No.2-MahaRERA had initially sought time to obtain instructions. Accordingly, the matter was

adjourned to 29th April 2025. On 29th April 2025, learned counsel for respondent No.2 again sought further time to take instructions with respect to the commencement of hybrid hearings, as was the practice prior to the COVID-19 pandemic. In view thereof, the matter was adjourned to 30th April 2025.

7 On 30th April 2025, we heard learned counsel for the petitioner and learned counsel for the respondents, and directed them to file their written submissions. Pursuant to the said direction, all parties submitted their respective written submissions. Learned counsel Mr. Nilesh Gala also submitted written submissions on behalf of the RERA Practitioners Welfare Association ('RPWA').

8 Although the petition was closed for orders, whilst going through the papers, as there were some queries which were left unanswered by the counsel appearing for the respondent No.2-MahaRERA, we again listed the petition on 25th June 2025.

On the said date, learned counsel appearing for the respondent No.2-MahaRERA, sought time to take instructions. Accordingly, the petition was adjourned to 27th June 2025. On 27th June 2025, after hearing the parties, the aforesaid petition was closed for orders.

9 Mr. Naphade, learned counsel for the petitioner, with respect to prayer clause (b) submitted that the respondent No. 2 MahaRERA be directed to resume hybrid hearings, which were in place prior to COVID-19 pandemic. He emphasized that such a model ensures both accessibility and procedural efficiency, and aligns with the statutory objective of the Act namely, the expeditious and transparent adjudication of disputes.

10 Mr. Naphade, learned counsel for the petitioner relied on several provisions of the MahaRERA Regulations, 2017 and pointed out that Circular No.34A dated 8th April 2025, issued in supersession of its previous Circular No. 34 dated 21st

June 2021, was occasioned by the pandemic. He submitted that the said Circular No. 34A carves out an exception *inter alia* for the complaints filed for non-compliance of the order passed by the Authority or the Adjudicating Officer, i.e. the complaint can be heard without following the chronological or seniority process. He submitted that the said Circular No. 34A does not lay down any process as to how cases under exceptions can be treated and listed/heard before the Authority. He submitted that there is a need for issuance of guidelines so as to regulate the proceedings conducted by the Authority including that of execution of its orders keeping in mind the mandate of the MahaRERA Act and the Regulations thereunder, so as to give meaning and effect to the Act and the Regulations. He further submitted that whereas there is a provision for speedy disposal of application/complaint before the Authority, there is no structured mechanism in place for disposal of execution/non-compliance of proceedings in respect of the orders passed by the Authority. He further submitted that there also exists no mechanism for getting

a matter listed on a specified or certain date, for the first time or any subsequent date in any proceeding before the Authority, including for non-compliance/execution proceeding. According to Mr. Naphade, even after the parties get an order in their favour from the Adjudicating Officer, the parties are unable to bear the fruits of the order, for want of effective execution of the same, which often results/enures to the advantage of the builders/promoters/ developers.

11 Mr. Naphade further submitted that a complaint is required to be filed on-line by the complainant on the website of the Authority and that the Authority lists the matter for the first time at its own discretion, only through video-conferencing before the Authority. He submitted that the complainant or his advocate is sent an intimation of hearing only through e-mail and that there is no mechanism of mentioning the matter physically or virtually before the Authority, in case of any urgency or otherwise. He further submitted that despite attempts being

made to write letters to the Office of the Authority, which are directed to be uploaded on-line on the Filing Portal, there is no way for the complainant to know whether the said letter sent by the complainant has been taken cognizance of or acted upon. Thus, frustrating the very object of the MahaRERA Act.

12 Mr. Naphade submitted that prior to the COVID-19 pandemic, the Authority was functioning physically and all parties and advocates had the opportunity to appear in-person before the Authority and make representations effectively. However, post COVID-19, while MahaRERA continues to function entirely through virtual hearings, all the courts and tribunals across the country, including in Maharashtra have adopted hybrid model. He further submitted that dates for pronouncement of reserved orders are not fixed or notified, and as such, the litigants are left in a complete dilemma and uncertainty and have to repeatedly follow up.

13 Mr. Naphade further submitted that IDs and contact information of the Authority and its officials, although available on its portal are either non-functional or unresponsive, and as such, the communication with the Authority is effectively unilateral. Emails often go unanswered, representations uploaded on the filing portal are not acknowledged, and no provision exists for in-person or virtual mentioning, thus frustrating the very purpose of the Act.

14 We are also generally informed that once a matter is listed and the complainant refuses conciliation, it is adjourned with a direction to be listed 'as per seniority', which, in some cases, results in a delay of over a year before the matter is relisted, thereby frustrating the very object of the Act. It is further submitted that interim applications are not heard/decided; that valid amendments are not taken on record, causing further delay; and that parties remain unaware of when an order was actually passed, as no time-stamp is affixed to the uploaded order.

15 Considering the aforesaid, it is requested that certain guidelines be issued to the respondent No. 2 Authority to facilitate the adjudication of grievances and execution of its orders. He also prays that MahaRERA be directed to start Hybrid hearing of cases.

16 Although Mr. Nilesh Gala has submitted his written submissions on behalf of RPWA, we do not wish to go into the same since Mr. Naphade has, in detail, addressed us on these issues.

17 Mr. Adsure, learned counsel appearing for the respondent No.2-MahaRERA, has filed an affidavit-in-reply of Mr. Prakash Kaluram Sabale, the Secretary of MahaRERA dated 29th April 2025. From the said affidavit, it appears that hearings of on-line complaints filed by aggrieved parties whether home buyers, promoters, or real estate agents, were held physically pre-

pandemic and transitioned to virtual mode during COVID-19 and continues to hear the complaints virtually, even post COVID-19. As per the affidavit, the IT complaint module of MahaRERA allows complainants to file applications requesting for urgent hearings of complaints as well as for grant of interim reliefs and as such, other applications as considered necessary. In the affidavit, it is further stated that the Authority is trying its level best to reduce pendency and has set out a chart of the number of complaints filed and disposed of as on 27th April 2025 and the number of applications filed for non-compliance of orders passed by the Authority i.e. the number of applications disposed of and pending for final disposal. In para 14 of the affidavit, it is further stated that the hearing of the complaints are on-line. However, if the parties desire to have physical hearing, an application for the same is submitted before the respective Bench, the said request may be considered by the Bench.

18 We have heard Mr. Naphade, learned counsel appearing on behalf of the petitioner and Mr. Adsure, learned counsel appearing on behalf of the respondent No.2-MahaRERA.

19 At the outset, we may note that it is not in dispute that MahaRERA was previously conducting physical hearings, and that virtual hearings were introduced as a necessity during the pandemic. What is concerning, however, is the Authority's continued insistence on a virtual-only model, despite the availability of both physical and virtual infrastructure, though all the courts and tribunals across the country, including in Maharashtra have adopted hybrid model. In the light of the aforesaid and more particularly, when parties were being heard physically, we do not understand the resistance of MahaRERA to commence hybrid hearing since it is not in dispute that the facilities to hear the parties physically and virtually are in place.

20 The importance of hearing parties physically or virtually as the case may be, is left to the parties and the importance of giving the parties an opportunity to decide the same in today's day and age, can hardly be understated.

21 Access to justice is a constitutional guarantee and cannot be reduced to a mere formality. Procedural fairness includes the right of parties to choose their mode of hearing, especially when both physical and virtual modalities are feasible. Tribunals must not only be accessible in form, but also in substance.

22 Administrative Tribunals were established by the 42nd Amendment in 1976, by introducing Article 323A. Access to justice is an important component of any court, the object being that the parties for whom the Courts/Tribunals exists, must be given an opportunity of being heard. Tribunals were constituted with the sole objective of delivering speedy, inexpensive and decentralized

adjudication of disputes in various matters. Tribunals have been established with the object of furthering the cause of access to justice by providing speedy justice. The objective of RERA and MahaRERA is to provide speedy, transparent, and effective adjudication of disputes in the real estate sector. However, the absence of a structured mechanism for urgent listing, hearing, and execution undermines these objectives. Virtual-only hearings, when coupled with the inability to communicate effectively or mention urgent matters, result in systemic opacity and procedural delays.

23 The Apex Court in *Sarvesh Mathur v. Registrar General, High Court of Punjab and Haryana*¹, highlighted the importance of hybrid hearings, noting that the denial of access to either mode amounts to procedural injustice. The Apex Court made it clear that access to virtual hearings alone is insufficient. Denial of physical hearing, even when facilities exist, amounts to an unreasonable fetter on litigants' rights. The decision emphasizes that the ability to choose one's mode of hearing is integral to access to

1 2023 SCC OnLine SC 1293

justice. In this backdrop, the Court issued binding directions requiring all courts and tribunals to implement hybrid hearing mechanisms and associated infrastructure, which read thus:-

- (i) After a lapse of two weeks from the date of this order, no High Court shall deny access to video conferencing facilities or hearing through the hybrid mode to any member of the Bar or litigant desirous of availing of such a facility;*
- (ii) All State Governments shall provide necessary funds to the High Courts to put into place the facilities requisite for that purpose within the time frame indicated above;*
- (iii) The High Courts shall ensure that adequate internet facilities, including Wi-Fi facilities, with sufficient bandwidth are made available free of charge to all advocates and litigants appearing before the High Courts within the precincts of the High Court complex;*
- (iv) The links available for accessing video conferencing/hybrid hearings shall be made available in the daily cause-list of each court and there shall be no requirement of making prior applications. No High Court shall impose an age requirement or any other arbitrary criteria for availing of virtual/hybrid hearings;*

- (v) *All the High Courts shall put into place an SOP within a period of four weeks for availing of access to hybrid/video conference hearings. In order to effectuate this, Justice Rajiv Shakdher, Hon'ble Judge of the High Court of Delhi is requested to prepare a model SOP, in conjunction with Mr Gaurav Agrawal and Mr K Parameshwar, based on the SOP which has been prepared by the e-Committee. Once the SOP is prepared, it shall be placed on the record of these proceedings and be circulated in advance to all the High Courts so that a uniform SOP is adopted across all the High Courts for facilitating video conference/hybrid hearings;*
- (vi) *All the High Courts shall, on or before the next date of listing, place on the record the following details:*
- (a) *The number of video conferencing licences which have been obtained by the High Court and the nature of the hybrid infrastructure;*
 - (b) *A court-wise tabulation of the number of video conference/hybrid hearings which have taken place since 1 April 2023; and*
 - (c) *The steps which have been taken to ensure that Wi-Fi/internet facilities are made available within every High Court to members of the Bar and*

litigants appearing in person in compliance with the above directions.

- (vii) The Union Ministry of Electronics & Information Technology is directed to coordinate with the Department of Justice to ensure that adequate bandwidth and internet connectivity is provided to all the Courts in the North-East and in Uttarakhand, Himachal Pradesh and Jammu and Kashmir so as to facilitate access to online hearings;*
- (viii) All High Courts shall ensure that adequate training facilities are made available to the members of the Bar and Bench so as to enable all practicing advocates and Judges of each High Court to be conversant with the use of technology. Such training facilities shall be set up by all the High Courts under intimation to this Court within a period of two weeks from the date of this order; and*
- (ix) The Union of India shall ensure that on or before 15 November 2023, all Tribunals are provided with requisite infrastructure for hybrid hearings. All Tribunals shall ensure the commencement of hybrid hearings no later than 15 November 2023. The directions governing the High Courts shall also apply to the Tribunals*

functioning under all the Ministries of the Union Government including CESTAT, ITAT, NCLAT, NCLT, AFT, NCDRC, NGT, SAT, CAT, DRATs and DRTs.

(emphasis supplied)

24 The object of these directions was to ensure that video-conferencing/hybrid facilities were made available by Tribunals and all High Courts. It was also noted in the said judgment, that technology plays an essential role in securing access to courtrooms and as a result, access to justice for citizens across the country; that in the march of technology, Courts cannot remain technologically averse; that placing fetters on hybrid hearings, like mandating an age criteria, requiring prior application, and frequent denial of access to virtual participants has the direct effect of discouraging lawyers and litigants to use technology, which not only affects the efficiency and access to Courts, but it also sends out the misguided message that access to Courts can be restricted at the whim to those who seek justice.

25 The ratio of the *Sarvesh Mathur (supra)* is applicable conversely to the present case. MahaRERA is presently conducting hearings only through video-conferencing, despite having the infrastructure to allow for physical hearings and despite parties expressing their preference to appear physically. Several concerns could be addressed if a hybrid model, allowing both physical and virtual participation, is adopted. For instance: (i) Parties would have greater clarity regarding the sitting schedule of the Tribunal Members; (ii) They would be informed about the status or outcome of their praecipes, which currently go unanswered; (iii) If an incorrect video link is received, the advocate or litigant may lose the opportunity to attend or argue the matter, which could adversely affect the case; (iv) Despite the existence of urgency, parties may be denied a short date of hearing, solely due to technical or procedural lapses.

26 Infact, having perused the Seniority Circular issued by MahaRERA, we find that the Seniority Circular cannot be the sole

basis for determining urgency; there may be other reasons warranting listing. Matters involving non-compliance, serious prejudice, or impending irreparable harm may require immediate attention, irrespective of their position in the seniority list. A rigid adherence to chronology, without a mechanism for urgent mentionings or timely listing, risks defeating the very objective of the Act, namely, expeditious and effective redressal of grievances.

27 Furthermore, there may be instances where advocates or litigants are not entirely conversant with the technicalities of an online hearing platform. In such cases, lack of technological familiarity could effectively deny them access to justice. In the absence of a well-defined system or application for conducting online proceedings, such hearings risk becoming inefficient and disorderly. The unavailability of a hybrid hearing mechanism may, in turn, lead to slower disposal rates, increased case pendency, and ultimately, defeat the very purpose of the Act, which is the expeditious resolution of disputes. Additionally, the present mode

of communication with the Authorities is unilateral, offering little to no opportunity for the parties to effectively present or clarify their case.

28 Though in the affidavit, respondent No.2-MahaRERA asserts that parties may request physical hearings, learned counsel for the petitioners contends that in practice, not a single case has been listed for physical hearing in recent couple of years.

29 Access to justice is not merely about providing virtual access, but ensuring that parties also have the right to appear physically. In the present case, it is not as though the Tribunal never held physical hearings. Prior to the COVID-19 pandemic, physical hearings were the norm. It was only during the pandemic that the Tribunal transitioned to virtual hearings. However, even after the pandemic, respondent No.2 has continued to hold hearings exclusively via video-conferencing, resulting in several difficulties for litigants and lawyers alike. This insistence on an exclusive

virtual model creates impediments to access to justice, the very objective that justified the introduction of virtual hearings during the pandemic. Access to justice cannot be reduced to an 'either/or' framework. The 'either/or' approach adopted by MahaRERA is restrictive. The hearing mechanism must be 'hybrid', permitting the litigants or lawyers to choose the mode of appearance/hearing.

30 The object of MahaRERA is to regulate and promote the real estate sector. It is established with a view to protect the interests of consumers in the real estate sector through an efficient, effective, timely and transparent system/mechanism. It aims at providing an adjudication mechanism for speedy dispute redressal.

31 In view of the above discussion and considering the continuing difficulties faced by litigants and counsel appearing before MahaRERA, the following directions are issued:

- (i) MahaRERA shall, within a period of four weeks from

the date of receipt of this order, restore the facility of hybrid hearings, permitting parties to opt for either physical or virtual appearance, as per their convenience;

(ii) MahaRERA shall consider revisiting Circular No. 34A dated 8th April 2025 and its Standard Operating Procedures (SOPs), particularly with respect to the mechanism for:

- (a) Urgent listing of matters;
- (b) Execution of non-compliance orders;
- (c) Mentioning of cases (physically or virtually); and
- (d) Pronouncement and publication of reserved orders;

(iii) MahaRERA shall be guided by the directions issued by the Apex Court in *Sarvesh Mathur (supra)*, and take steps to align its processes with the principle of effective and inclusive access to justice;

(iv) MahaRERA shall also maintain a register of praecipes submitted for circulation, production, or urgent listing, and shall record the acceptance or rejection of such applications;

(v) MahaRERA shall also upload its orders with a time-stamp indicating the date and time of upload;

(vi) MahaRERA shall assign fixed dates for hearings and, in the event of an adjournment, shall indicate the next date of hearing to enable parties to remain informed and prepared;

(vii) MahaRERA shall place in the public domain, through its website, the relevant procedures and contact information (email, helpline, etc.) in a functional and transparent manner, including a calendar of Benches and cause-lists, wherever applicable, expeditiously.

32 Before parting, we may reiterate that access to justice is not a privilege but a constitutional right. Ensuring procedural clarity, physical accessibility, and technological support are core elements of that right. As John F. Kennedy aptly remarked:

“The time and the world do not stand still. Change is the law of life. And those who look only to the past or present are certain to miss the future.”

33 It is only in this context that the Apex Court took note of the shifting dynamics of the Indian Judicial System vis-a-vis the status of hybrid mode of hearings, in the case of ***Sarvesh Mathur (Supra)***. We hope and trust that MahaRERA keeps in mind the changing dynamics. The judicial system must evolve with the times, and so must its institutions.

34 Rule is made absolute. The writ petition is accordingly disposed of with the aforesaid directions. No order as to costs.

35 List the petition for recording compliance on **4th September 2025**.

36 All concerned to act on the authenticated copy of this order.

DR. NEELA GOKHALE, J.

REVATI MOHITE DERE, J.

37 After the judgment was pronounced, learned counsel for the respondent No.2 sought a stay of this judgment. The request is rejected.

DR. NEELA GOKHALE, J.

REVATI MOHITE DERE, J.