

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

**WRIT PETITION (L) NO.16053 OF 2026**

CCI Projects Pvt. Ltd.

.. Petitioner

Vs.

Maharashtra Real Estate  
Appellate Tribunal & Ors.

.. Respondents

...

Mr. Soli Cooper, Senior Advocate with Mr. Yohann Cooper,  
Mr. Abir P. and Mr. Kartik Joshi i/b. Wadia Ghandy & Co.,  
Advocates for the Petitioner

Mr. Aditya Pratap i/b. Aditya Pratap Law Offices, Advocates  
for Respondent Nos.2 and 3

Mr. Aman Shukla i/b. Anil D'souza, Advocates for  
Respondent Nos.2, 13 and 26.

Mr. Prashant Gawali with Mr. Gaurav Devdhekar, Advocate  
for Respondent No.12

Mr. Anjani Kumar Singh i/b. Ms. Asmita S. Jaiswal,  
Advocate for Respondent No.25

Mr. Aseem Naphade a/w. Mr. Nishant Chothani a/w.  
Mr. Yash Chheda, Mr. Nivit Srivastava, Ms. Aditi Sinha and  
Mr. Bhavya R. Shah i/b. Maniar Srivastava Associates,  
Advocates for respondent nos.34 and 35

**CORAM : SHREE CHANDRASHEKHAR, CJ &  
GAUTAM A. ANKHAD, J.**

**DATE : 8<sup>th</sup> MAY 2026**

**P.C. :**

Mr. Aseem Naphade, the learned counsel for the respondent nos.34 and 35 raised an issue in law on the ground that a judgment shall be binding between the parties and not the parties like the respondent nos.34 and 35. It is submitted that the provisions under section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (RERA, 2016) cannot be construed in a manner so as to cause

prejudice to the allottee/flat buyers who have suffered for years to take possession of the flat or get back their deposited amount.

2. The learned counsel for the respondent nos.34 and 35 refers to a decision dated 30<sup>th</sup> March 2026 titled “*Rare Townships Pvt. Ltd. v. Mitul Gada*” in Second Appeal Nos.121 of 2026 and 122 of 2026 rendered by a learned Single Judge of this Court to submit that the appellate Tribunal exercised its jurisdiction and the respondent nos. 34 and 35 cannot be deprived of their rights flowing from two concurrent judgments. It is submitted that this cannot be ground that if the amount is released and eventually the appellant-Developer succeeds it would be difficult for it to recover the said amount.

3. Mr. Anjani Kumar Singh, the learned counsel for the respondent no.25 has referred to the provisions of Regulation 25 of the Maharashtra Real Estate Appellate Tribunal Regulations, 2019 and submits that the Tribunal has sufficient powers to pass an order in a *suo moto* proceedings and that is what has been done in the present case.

4. This is not in dispute that the impugned order dated 27<sup>th</sup> April 2026 was passed on the same day when the judgment in Appeal No.AT006-53079/2021 and a batch of appeals was delivered. The judgment in the main matter simply recites that Appeal No. AT006-53079/2021 and a batch of appeals are dismissed, the promoter to pay cost of Rs.5000/- to each of the allottees and pending Misc. applications, if any disposed of. This is also not in dispute that on the same day, the Tribunal passed another order the relevant portion of which is extracted below:-

“1. Appeal Nos. AT006-53079/2021, AT006-52857/2021, AT006-52874/2021, AT006-52876/2021, AT006-52879/2021, AT006-

52881/2021, AT006-52886/2021, AT006-52982/2021, AT006-53090/2021, AT006-53104/2021, AT006-53113/2021, AT006-53125/2021, AT006-53127/2021, AT006-53128/2021, AT006-53134/2021, AT006-53138/2021, AT006-53141/2021, ATD06-53142/2021, AT006-53147/2021, AT006-53148/2021, AT006-53150/2021, AT006-53153/2021, AT006-53184/2021, AT006-53376/2021, AT006-52873/2021, AT006-52644/2021, AT006-52851/2021, AT006-52872/2021, AT006-52877/2021, AT006-52878/2021, AT006-53087/2021, AT006-53089/2021, AT006-53091/2021, AT006-53098/2021, AT006-53135/2021, AT006-53145/2021, AT006-53151/2021, AT006-53161/2021, AT006-53377/2021 and AT006-53179/2021 stand dismissed.

2. Promoter shall pay cost of Rs. 5,000/- to each of the allottees.

3. Pending Misc. applications, if any, stand disposed of.

4. Copy of this judgment be communicated to learned Authority and respective parties as per Section 44(4) of RERA Act.

1. It is seen from the record that the promoter has deposited amounts in each appeals towards compliance of Section 43(5) of RERA Act, 2016. The details thereof have already been furnished by learned Adv. Abir Patel in the matter as per table shown below:

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Since the appeals are dismissed, the allottees are entitled to said amounts. We are of the view that the captioned appeals are dismissed therefore natural corollary is that the allottees are entitled to get the amount deposited by the promoter towards compliance of Section 43(5) of RERA Act. Therefore, registry is directed to disburse the amount with accrued interest thereon to the allottees deposited by the promoter as above in the matters as per rules.

2. Now, learned Adv. Abir Patel submits that promoter has moved application to stay the later part of the order i.e. disbursement of the amount deposited by the promoter to the allottees on the grounds set out in the application more particularly on the ground that the impugned order passed in the captioned appeals has not been made available to the applicant/promoter as of today. It is to be noted that the judgment is ready in all respects and the copy of judgment is also available to the applicant and respective parties by today itself on the website and if they apply for hard copy of the judgment same will be provided to the respective parties.

3. The applicant has further contended that if the monies deposited in this Tribunal in the captioned appeals are released, it would cause prejudice to appellant and would curtails the right of appellant/promoter under Section 58 of RERA Act, 2016 that too before the statutory period for preferring the same has expired. We are of the view that right to prefer an appeal is a different thing and disbursement of the amount deposited by the promoter to allottee with accrued interest thereon is another aspect. The promoter can file appeal against the judgment passed by this Tribunal. The very purpose of pre-deposit is to secure the claim of the allottees and the same has been categorically observed by the Hon'ble Supreme Court in

*Newtech case. The Hon'ble Supreme Court has observed that the very object of Section 43(5) of RERA is that the allottee should not run from pillar to post to recover the amount. Keeping in view the object of pre-deposit and observations of the Hon'ble Supreme Court in the Newtech case. We are of the view that there is no impediment in disbursing the amount deposited by the promoter in the captioned appeals to allottees. However, the allottees are directed to furnish undertakings that if order is reversed in the Second Appeal they will pay the amount received from this Tribunal to the promoter. With these observations we do not find merit in the application.*

4. *Accordingly, application stands rejected.*

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5. The said order has been passed in a *suo moto* proceedings by the Tribunal. The Tribunal has recorded in the order dated 27<sup>th</sup> April 2026 under challenge that the allottees are entitled to the amounts as indicated in the table as the appeals filed by the Promoter were dismissed. There cannot be any dispute as to such proposition but what falls for consideration in the present case is the manner in which the Tribunal has modified its order without there being any application on behalf of the allottee/respondent. Not only that the Tribunal has issued a direction to the Registry to disburse the amount, it has also directed the payment with accrued interest thereon to the allottees.

6. A similar procedure was followed by the Tribunal and this Court vide order dated 5<sup>th</sup> May 2026 in Writ Petition (L) No.15903 of 2026 stayed the operation of the order dated 27<sup>th</sup> April 2026 which was appended with the writ petition starting from page no.494 of the paper book. In that case, this Court observed as under:

*“5. This is quite well settled law that in a petition filed by an individual or an entity there cannot be an order adverse to him except dismissing the petition or application. Mr. Soli Cooper, the learned senior counsel appears for the promoter-petitioner and submits that by directing disbursement of the amount with accrued interest to the allottees the appellate authority has rendered the statutory right of the petitioner to file a second appeal infructuous.”*

7. Therefore, post this matter on 23<sup>rd</sup> June 2026. Till then, the operation of the order dated 27<sup>th</sup> April 2026 starting from page page no.313 of the paper book shall remain stayed.

**[GAUTAM A. ANKHAD, J.]**

**[CHIEF JUSTICE]**