



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 3050 OF 2026 (GM-RES)

BETWEEN:

1. M/S. UNISHIRE PROMOTERS PVT. LTD.,
A COMPANY REGISTERED
UNDER THE INDIAN COMPANIES
ACT, 1956 AND
HAVING ITS ADMINISTRATIVE
OFFICE AT NO.36,
UNISHIRE SQUARE,
RAILWAY PARALLEL ROAD,
NEHRU NAGAR, BENGALURU-560 020.
PRESENTLY AT NO.42,
CASTLE STREET, ASHOK NAGAR,
BENGALURU-560 025.
REP. BY ITS AUTHORISED SIGNATORY
SRI. PRATIK K MEHTA.
2. MR. KIRTI MEHTA
S/O. KANTILAL MEHTA,
AGED ABOUT 69 YEARS,
3. MR. PRATIK K. MEHTA
S/O. MR. KIRTI MEHTA,
AGED ABOUT 43 YEARS,
4. MR. VINAY K. MEHTA
S/O. MR. KIRTI K. MEHTA,
AGED ABOUT 38 YEARS,
NO.2 TO 4 RESIDING AT
NO.36, RAILWAY PARALLEL ROAD,





NEHRU NAGAR, BANGALORE-560 020,
CURRENT ADDRESS NO.42,
CASTLE STREET, ASHOK NAGAR,
BANGALORE-560 025.

...PETITIONERS

(BY SRI. G.S. VENKAT SUBBARAO, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF HOUSING,
GOVT. OF KARNATAKA,
ROOM NO.213, 2ND FLOOR,
VIKASA SOUDHA,
BENGALURU-560 001.
2. KARNATAKA REAL ESTATE
REGULATORY AUTHORITY
NO.1/14, 2ND FLOOR,
SILVER JUBILEE BLOCK,
UNITY BUILDING, CSI COMPOUND,
3RD CROSS, MISSION ROAD,
BENGALURU-560 027.
3. SRI. SUNIL MENON
S/O MR. THEKKEY CHERUPILLI
MANMOHAN MENON,
AGED ABOUT 54 YEARS,
RESIDING AT VILLA 123,
ADARSH PALM RETREAT
OUTER RING ROAD,
DEVARABEESANAHALI, BELLANDUR,
BANGALORE-560 103.

...RESPONDENTS

(BY SRI. ADITYA DIWAKARA, AGA FOR R1)



THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASHING THE IMPUGNED ORDER DATED 15.01.2025 IN FR NO. (K-REAT) 158/2023, PASSED BY KARNATAKA REAL ESTATE APPELLATE TRIBUNAL, BANGALORE, ON IA NO.2/2024 FILED UNDER SEC. 151 OF CPC SEEKING DISPENSATION OF STATUTORY DEPOSIT, VIDE ANNEXURE-A.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioners' grievance is with the order dated 15.01.2025 [Annexure-A] under the Karnataka Real Estate [Regulation and Development] Act, 2016 (for short, '*the Act*'). The Appellate Authority has rejected the petitioners' application for exemption from depositing the amount as contemplated under Section 43(5) of the Act, and Section 43[5] of the Act reads as under:

"43. Establishment of Real Estate Appellate Tribunal —



(5) Any person aggrieved by any direction or decision or order made by the Authority or by an adjudicating officer under this Act may prefer an appeal before the Appellate Tribunal having jurisdiction over the matter:

Provided that where a promoter files an appeal with the Appellate Tribunal, it shall not be entertained, without the promoter first having deposited with the Appellate Tribunal atleast thirty percent of the penalty, or such higher percentage as may be determined by the Appellate Tribunal, or the total amount to be paid to the allottee including interest and compensation imposed on him, if any, or with both, as the case may be, before the said appeal is heard.

Explanation—For the purpose of this subsection “person” shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.”

Sri G.S. Venkata Subbarao, the learned counsel for the petitioners, submits that the Appellate Authority should have granted exemption because



the petitioners have challenged the *locus* of the complainants who are actually investors to maintain a complaint, and the learned counsel proposes to contend that because the complainants' *locus* is called in question, the Appellate Authority should have carved out an exception from the rigors of proviso to Section 43(5) of the Act.

This Court must observe that the proviso to Section 43(5) of the Act is clear, and the stipulation under this proviso is that, when a promoter files an appeal, the Appellate Tribunal shall not entertain such appeal without first depositing at least 30% of the penalty or such higher percentage as may be determined by the Tribunal as payable including interest and compensation. This proviso is clear and unequivocal in stipulating that the appellate remedy would be available to a promoter when subject to the Tribunal's order, the promoter deposits in the least 30% of the money or a higher sum.



This Court, therefore, is not persuaded to carve out an exception on the ground that the petitioner, a promoter, has filed its appeal calling in question the complainants' *locus*. As such, the petition stands disposed of but with liberty to the petitioner to make an application with the Tribunal to reconsider whether the petitioner must be called upon to deposit the entire amount.

Sd/-
(B M SHYAM PRASAD)
JUDGE

RS