

IN THE KARNATAKA REAL ESTATE APPELATE TRIBUNAL,  
BENGALURU

DATED THIS THE 23<sup>RD</sup> DAY OF JULY, 2021

PRESENT

HON'BLE SRI B SREENIVASE GOWDA, CHAIRMAN

AND

HON'BLE SRI K P DINESH, JUDICIAL MEMBER

AND

HON'BLE SRI P S SOMASHEKAR, ADMINISTRATIVE MEMBER

APPEAL NO. (K-REAT) 385 /2020

**BETWEEN:**

M/s Shiv Parvathi Constructions  
Rep. by its Proprietor,  
Sri Mohan Mungale  
S/o Sri Manohar M Munguale  
Aged about 63 years,  
No. A703, the Orchard, SR.No.24,  
HMT Main Road,  
Opp: Watch Factory, Jalahalli,  
Bengaluru-560013  
Project: "The Orchard"

...APPELLANT

(Rep. by Sri Harish H.V., Advocates)

1. Karnataka Real Estate Regulatory Authority,  
Bengaluru.  
Rep. by Secretary  
No. 1/14, 2<sup>nd</sup> Floor  
Silver Jubilee Park,  
Unity Building, CSI compound,  
3<sup>rd</sup> cross, Mission Road,  
Bengaluru 560027.
2. Mr. Rajkumar M Patangi  
S/o Mr Mullisiddappa  
Aged about 45 years,  
R/at. Flat No. E301,  
The Orchard, SR.No.24,



*Handwritten signature and date: 23/07/21*



RERA-2178

HMT Main Road,  
Opp: Watch Factory, Jalahalli,  
Bengaluru-560013

...RESPONDENTS

(R.1 served, unrepresented)  
(Sri Rajkumar M Patangi, R2-Party-In- Person)

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 15<sup>th</sup> October 2018 passed in complaint No. CMP/180627/0000965 by respondent No.1-Adjudicating Officer, RERA.

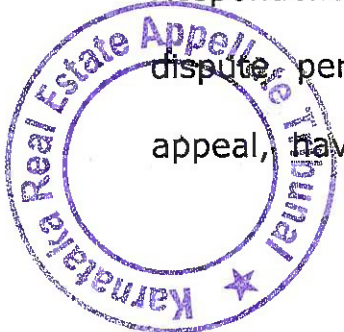
This appeal, coming on for Admission this day, Hon'ble Chairman delivered the following:

### J U D G M E N T

The appellant, who is a developer of a real estate project known as "THE ORCHARD" has preferred this appeal challenging the order passed by the learned Adjudicating Officer dated 15<sup>th</sup> October, 2018 in CMP/180627/0000965, which reads thus:

"The complaint No. CMP/180627/0000965 has been closed on account of the Memo of Settlement filed on 10.10.2018"

2. The learned counsel for the appellant submits that the appellant and Respondent No. 2-allottee, after due deliberation and discussion of their dispute pertaining to the complaint in CMP/180627/0000965 and this appeal, have got the same settled amicably by reducing the terms and



conditions of settlement into writing by way of a detailed compromise petition under Order 23 Rule 3 of CPC.

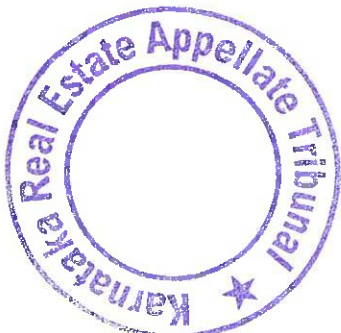
3. The compromise petition signed by the appellant-developer, 2<sup>nd</sup> respondent-allottee and the learned counsel for the appellant, is taken on record. The terms of compromise were read over to the parties in the language known to them and they have submitted that the compromise petition is entered into between them on their free will and volition and there is no force, misrepresentation, fraud, undue influence or coercion and they submit that the appeal may be disposed of in terms of compromise petition.

4. It is made clear that the compromise arrived at between the parties is restricted only to delay compensation which is the subject matter in CMP/180627/0000965 and this compromise will not come in the way of Respondent No.2-allottee pursuing his complaint in CMP 5858/2020 which is filed before RERA seeking a direction to the appellant to provide amenities as agreed in the agreement of sale entered into between the parties.

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

**ORDER**

- i) Appeal is disposed of in terms of the compromise petition;



- ii) Compromise petition filed by the parties today shall be treated as part and parcel of this order;
- iii) Parties shall discharge their respective obligations enunciated in the compromise petition in order to give effect to the compromise and to avoid unnecessary litigation in future;
- iv) In view of disposal of the appeal in terms of compromise petition, pending I.As, if any, stand disposed of as they do not survive for consideration;
- v) That out of the amount deposited by the appellant with this Tribunal while preferring the appeal in part compliance of proviso to Section 43(5) of the RERA Act, Registry is directed to release a sum of Rs.3,00,000/- (Rupees Three lakhs) along with proportionate interest accrued thereon, if any, in favour of the 2<sup>nd</sup> respondent-allottee and return the balance amount with proportionate interest accrued thereon, if any, to the proprietor of the appellant-company, who has signed the appeal memo and the Vakalath, after following the procedure required for the same.



- vi) Office while issuing certified copy of the order, at the instance of any of the parties, shall issue the same along with copy of the compromise petition;
- vii) Registry is directed to comply with provision of Section 44(4) of the Act and to return the record to RERA, if received.

No order as to costs.

Sd/-

**HON'BLE CHAIRMAN**

Sd/-

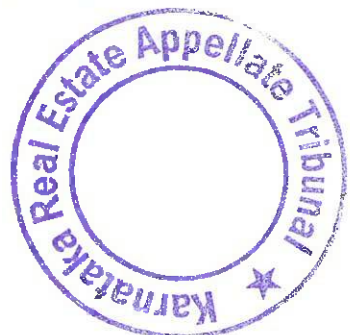
**HON'BLE JUDICIAL MEMBER**

Sd/-

**HON'BLE ADMINISTRATIVE MEMBER**

**TRUE COPY**

*[Handwritten Signature]*  
SECTION OFFICER  
KARNATAKA REAL ESTATE  
APPELLATE TRIBUNAL  
BENGALURU-560 027  
*[Handwritten Date]* 29/12/14





BEFORE THE KARNATAKA REAL ESTATE APPELLATE TRIBUNAL,  
BENGALURU

APPEAL NO. 385 / 2020

BETWEEN:

M/s. Shiv Parvathi Constructions  
Rep. by its Proprietor  
Sri. Mohan Mungale ----- Appellant

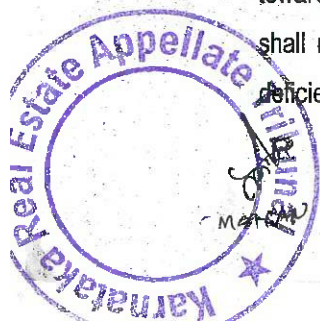
AND

Karnataka Real Estate Regulatory Authority  
Bengaluru  
Rep. by Secretary and another ----- Respondent

JOINT COMPROMISE PETITION FILED UNDER ORDER 23 RULE 3 OF CPC

The appellant and respondent No.2 state as follows:

1. The respondent No.2 herein filed a case against Mohan Manohar Mungale (Individual Party) claiming certain reliefs in Complaint No.CMP/180627/0000965, before the Adjudicating Officer, RERA, Bengaluru, Karnataka. The appellant herein filed detailed objections. However, on 10.10.2018, settlement arrived at Rs.9,00,000/- to be paid to the respondent No.2, herein within February, 2019 along with other terms and conditions. Based on the said memo of settlement, an order came to be passed on 15.10.2018 and closed the case in terms of settlement filed on 10.10.2018.
2. The appellant had already paid Rs.4,50,000/- to the Second respondent towards 50% of the amount agreed to be settled. However, the respondent had filed petition and by Order dated 12.08.2020, the appellant was directed to pay Rs.10,90,770/-, which is challenged in this appeal. Further, the appellant has also deposited Rs.3,27,250/- as per the order of this Hon'ble Authority.
3. The parties have arrived at a settlement and compromise the matter in terms of compromise, the respondent No.2 has agreed to receive and appellant has agreed to pay Rs.2,50,000/- towards full and final settlement of all claims of Respondent No.2. Accordingly, the appellant has no objection for respondent No.2 to receive an amount of Rs.3,00,000/- deposited before this Hon'ble Authority towards full and final claim. Further, the respondent No.2 / Rajkumar M Patangi shall not claim any arrears / interest / damages or performance of any works or deficiencies from the appellant or his firm/ concern with respect to the apartment





purchased by him or with respect to the entire project "The Orchard" constructed by M/s Shivaparvathi Constructions. ~~Further he undertakes that he shall not file any case or any complaint regarding the same before any authority. The respondent shall not file any case or complaint against the appellant.~~ *DM*

4. The respondent NO.2 / Rajkumar Patangi also undertakes to take back the complaint in CMP.5050/2020, on the file of Real Estate and Regulating Authority at Bangalore and shall not claim ~~any of the reliefs sought in the said petition.~~ *Do not compromise on the interest of the parties caught in the said petition.* On this condition also, the compromise is arrived at between the Parties *DM*

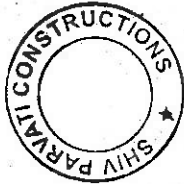
5. In view of the settlement arrived at between the parties, the appellant has no objection for respondent No.2 to claim Rs.3,00,000 /- out of the amount deposited before this Hon'ble Authority towards full and final settlement of all his claims against the appellant in all aspects including the deficiencies allegedly pointed out by the respondent No.2 and the order impugned in this appeal in any manner

6. Wherefore, it is prayed that this Hon'ble Authority be pleased to dispose off the appeal as settled as per the terms of the compromise petition by allowing the appeal and suitably direct release of the deposited amount as per the terms and conditions of the parties in the above appeal, in the interest of justice.

*Manish H O*  
(CHARIC H O)  
Advocate for Appellant

*Raj* 23/07/21  
Mr.Rajkumar M Patangi  
(Respondent No.2)

*Sri.Mohan Mungale*  
Sri.Mohan Mungale  
(Proprietor M/s.Shiva Parvathi Constructions)  
(Appellant)



**TRUE COPY**

*23/07/21*  
SECTION OFFICER  
KARNATAKA REAL ESTATE  
APPELLATE TRIBUNAL  
BENGALURU 560 027

Bengaluru  
Date: 23/07/21

