

**IN THE KARNATAKA REAL ESTATE APPELLATE TRIBUNAL,
BENGALURU**

DATED THIS THE 27TH DAY OF FEBRAURY, 2023

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

FR No. (K-REAT)-113/2022

BETWEEN:

1. Sri R.N Manjunath
S/o. Sri. Narayana Reddy
Aged about 55 years,
Residing at No. 105,
Ramasagara Muthanalluru
Anekal Taluk,
Bengaluru-560 099.
2. Sri. P. Manjunatha Reddy
S/o. Late Papa Reddy
Aged about 56 years,
Residing at No. 305/56
2nd Floor, above SBM Bank,
2nd Main, 40th Cross,
Jayanagar 8th block, Bengaluru-560 070.

Represented by his GPA holder
Sri. K. Ravish
S/o. Sri. Kalasappa Hegde,
Aged 56 years,
Residing at No. 18, 5th Cross,
Shankarpuram, Bengaluru-560 004.

: Appellants

(By Sri M.L Gowda for M.L Gowda & Associates, Advocates)

AND

1. The Karnataka Real Estate Regulatory Authority,
Represented by its Secretary
Second Floor, Silver Jubilee Block,
3rd Cross Road, CSI Compound,
Mission Road, Sampangi Rama Nagara,
Bengaluru-560 027.
2. M/s Balaji Builders & Developers
Represented by its proprietor
Sri. Srinivasa Murthy T.V
S/o. T.S. Venkatesh Murthy
Aged about 45 years
No. 887, 19th Main, 10th Cross,
Ideal Homes Township,
R.R Nagar, Bengaluru-560 098.
3. Sri Kumaran. S,
Sri.Krishna Enclave Building,
Kithiganahalli Village,
Sri. Krishna Paradise Layout,
Bommasandra Post,
Bengaluru-560 099.

: Respondents

This appeal is filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 praying to set aside the order dated 28.10.2022 passed by the RERA Authority-R1 in complaint no. CMP/190830/0004013.

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

ORDER

The appellants who are the land owners of the property bearing Sy. No.76/3C situated at Chandapura Village, Attibele Hobli, Anekal Taluk, entered into Joint Development Agreement for development of

the said property into a Real Estate Project known as "Jaithra Towers". The 3rd respondent who is an allottee of a flat in the said project entered into an Agreement for Sale with the promoter for purchase of the said flat. As the Promoter failed to complete the project on time as promised in the Agreement for sale, the 3rd respondent-allottee filed a complaint before RERA for refund of the entire amount paid by him with interest.

2. The Authority, after hearing the parties and perusing the documents, by order dated 28.10.2022 allowed the complaint and directed the promoter to register the project and to refund the amount paid by the allottee with interest. Aggrieved by the said order, the appellants-land owners have preferred this appeal praying to set aside the impugned order.

3. The above appeal is filed on 18.11.2022 and the office has raised several objections including non-deposit of statutory amount as mandated under proviso to Section 43(5) of the Act. On 25.11.2022, 06.12.2022, 04.01.2023 & 20.01.2023, at the request of the learned counsel for the appellants, time was granted to the appellants to comply office objections. That on 09.02.2023, appellants were granted time finally up to 22.02.2023 to comply with the office objections, specially objection relating to making pre-

deposit of statutory amount as mandated under proviso to Section 43(5) of the Act, failing which, Registry was directed to list the appeal for orders on 27.02.2023, as to why appeal should not be dismissed for non-deposit of statutory amount and for non-compliance of other office objections.

4. Today, a memo signed by the learned counsel as well as appellants is filed seeking permission of the Tribunal to withdraw the above appeal as not pressed. Memo is taken on record.

5. Further, the learned counsel for the appellants has filed one more memo seeking permission of the Tribunal to take return of second and third set of appeal papers to make use of the same for other purposes. Memo is taken on record.

6. Accordingly, in view of the memos filed by the learned counsel for the appellants, we pass the following:

ORDER

- (1) Appeal is dismissed as withdrawn;
- (2) In view of dismissal of the main appeal, all pending I.A.s if any, are rejected as they do not survive for consideration;

- (3) Registry is directed to comply with the provisions of Section 44(4) of the Act and to return the records, if any, to the RERA;
- (4) Registry is further directed to retain the first set of appeal papers and return the second and third sets of appeal papers to the learned counsel for the appellants.

Sd/-
HON'BLE CHAIRMAN

Sd/-
HON'BLE JUDICIAL MEMBER

Sd/-
HON'BLE ADMINISTRATIVE MEMBER