

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6930 OF 2021
[@ SPECIAL LEAVE PETITION (C) NO. 16630 OF 2021]

RAVINDRA TUKARAM SURVE

Appellant(s)

VERSUS

RUNWAL DEVELOPERS PVT. LTD. & ORS.

Respondent(s)

O R D E R

Leave granted.

The present appeal is directed against an interim order passed by the High Court of Judicature at Bombay on 24.08.2021 whereby the High Court stayed the operation, implementation and execution of the impugned order dated 24.05.2021 passed by the Maharashtra Real Estate Regulatory Authority (in short, "the Authority").

The appellant booked a Flat No. 2901 admeasuring 1830 Sq. Ft for a total sum of Rs. 11,55,09,750/- in Tower A in a project being developed by Respondent No. 1 (in short "the Builder"). The appellant asserts to have paid a sum of Rs. 6 Crores on 03.12.2018 (Rs.11 Lakhs and Rs.5,89,00,000/- vide two different cheques). Mr. Vishwanathan stated that the amount paid is Rs.5,89,00,000/-. The possession was expected to be delivered by 01.03.2019 after obtaining Occupation Certificate. The possession of

the flat was not delivered to the appellant which led the appellant to invoke the jurisdiction of the Authority. Respondent No. 1 - the Builder also invoked the jurisdiction of the Authority claiming specific performance of the Agreement. Both the applications were decided by the Authority on 24.05.2021 declining relief of specific performance, but directing the refund of Rs. 6 Crores deposited by the appellant but without any interest.

The appellant filed an appeal before the Maharashtra Real Estate Appellate Tribunal claiming interest on the amount deposited by the appellant, whereas the Builder filed a writ petition before the High Court *inter alia* on the ground that the findings recorded by the Authority are in its favour, therefore, there cannot be any order of refund.

We have heard learned counsel for the parties at length. We find that the appellate jurisdiction was not invoked though contemplated under the Statute as may be for the reason that there is a condition of pre-deposit of the amount ordered to be refunded.

It is an admitted fact that Flat No. 2901, which was proposed to be purchased by the appellant, has since been sold to somebody else. Therefore, the Builder is not pressing his relief for specific

performance as claimed from the Authority in the first instance. In view of the said fact, we find that the appellant is left *high and dry* as neither the flat is likely to be made available nor the amount deposited by him has been refunded to him, with or without interest. Therefore, we find that the absolute stay granted by the High Court on 24.08.2021 requires to be modified with the following conditions: -

(I) That the Builder shall pay a sum of Rs. 6 Crores within a period of 30 days from today;

(II) The Builder shall pay simple interest on the abovesaid amount at the rate of 10% p.a.

(III) The appellant shall furnish his personal security for refund of the amount of interest, if the first respondent succeeds in the writ petition.

(IV) The Builder shall pay costs of Rs. 1,00,000/- (Rupees One Lakh) to the appellant for compelling the appellant to approach this Court for redressal of his grievances for the return of the amount deposited particularly, when the flat in question has been sold by the Builder.

(V) The payment of interest will be without prejudice to the rights of the Builder in the pending writ petition.

With the above observations and directions, the appeal is disposed of.

.....J.
[HEMANT GUPTA]

.....J.
[V. RAMASUBRAMANIAN]

New Delhi;
NOVEMBER 18, 2021.

ITEM NO.8 Court 11 (Video Conferencing) SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No. 16630 of 2021

(Arising out of the impugned interim order dated 24.08.2021 passed by the High Court of Judicature at Bombay in Writ Petition (L) No.16067 of 2021)

RAVINDRA TUKARAM SURVE Appellant(s)

VERSUS

RUNWAL DEVELOPERS PVT. LTD. & ORS. Respondent(s)
(FOR ADMISSION and I.R.)

Date : 18-11-2021 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Appellant(s) Mr. Nakul Dewan, Sr. Adv.
Mr. Rajendra Sorankar, Adv.
Mr. Chirag M. Shroff, AOR

For Respondent(s) Mr. K. V. Vishwanathan, Sr. Adv.
Mr. Saket Mone, Adv.
Mr. Subit Chakrabarti, Adv.
Ms. Priyashree Sharma Ph, Adv.
Ms. Rushali Agarwal, Adv.
Ms. Jayshree Ramachandran, Adv.
Mr. Nitin Jadhav, Adv.
Mr. Syed Faraz Alam, Adv.
Mr. Aravind Raj, Adv.
Mr. Kush Chaturvedi, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(RENU BALA GAMBHIR)
COURT MASTER

(Signed order is placed on the file)