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MahaRERA now opens execution tabs during appeal process

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*IMAGE USED FOR REPRESENTATIONAL PURPOSE ONLY*

Home buyers who get favourable orders from the Maharashtra Real Estate Regulatory Authority (MahaRERA) will now be able to file online applications for non-execution of these orders even during the 60-day period granted to the developer to proffer an appeal with the Maharashtra Real Estate Appellate Tribunal (MREAT).

Earlier, MahaRERA website had an inactive tab which prevented a home buyer from filing an online application for non-execution till the 60-day mandated period for appeal was over. However, following a writ petition filed by a 69-year-old Kandivali home buyer in the Bombay High Court, MahaRERA has now changed this process, and made the tab for non-execution active. As a result, home buyers will be able to file for non-execution while the developer's appeal pending or is being heard by the Appellate Tribunal.

"Yes, we have changed that process. Now, we have made the tab active so that the home buyers would be able to file application for non-execution even while the appeal process is on, but we will hear the application only after the mandated 60-day period is over and after checking the status of the appeal with the Tribunal," said Gautam Chatterjee, chairperson of MahaRERA.

69-year-old Baheti had booked a flat in Uptown project in Kandivali East in May 2015 with the promise of possession by December 31, 2015. When the developer Ruchipriya Developers Pvt Ltd failed to deliver and revised the date to 2023, she filed a complaint with MahaRERA seeking a refund.

In November 2018, MahaRERA asked the developer to refund Rs 6.84 lakh with 10.5 per cent interest. The developer filed an online appeal, but did not deposit the statutory 30 per cent of the refund amount without which the appeal would not be entertained by the Tribunal. When Baheti tried to file for non-execution, the tab on MahaRERA portal remained inactive even after mandated 60 days. Aggrieved by this, she decided to file a writ petition.

"The developer will neither remove the defects in the appeal nor pay the statutory 30 per cent amount and will delay the matter. Further the developer is in a win win situation as the petitioner cannot file an appeal," her petition said.

Advocate Tanuj Lodha, who represents Baheti, execution pending appeal cannot be denied, unless there is a stay order in Appeal. "The procedure of making online "Non execution of Order" tab inactive on mere filing of an online Appeal (without depositing minimum 30% statutory amount) is being used as a mischief to frustrate the aggrieved homebuyers," said Lodha.

Meanwhile, MahaRERA has also taken note of more than 176 recovery orders issued against non-complying developers still pending with the District Collectors, and decided to periodically review the pendency and facilitate its implementation. "We had a meeting of all MahaRERA members, and it was decided that we should periodically review the pending recovery orders, and take appropriate decisions," MahaRERA member Vijay Satbir Singh said.