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RERA tribunal to rehear cases as retired member can't sign order

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MUMBAI: The RERA appellate tribunal recently directed rehearing of two appeals as one of the members retired before the final reasoned judgment could be passed, though an operative part of the order was pronounced on July 26.

“In the case where judgment is pronounced in open court but not signed, ...it cannot be signed by the successor in office,” said the tribunal’s judicial member S R Jagtap.

The dispute was between Rivali Park Wintergreen Buyers’ Association, a body of 38 flat owners who had purchased the flats via registered agreements for sale from 2012 to 2017 in Rivali Park project in Borivli, and the landowner, Cable Corporation of India.

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The buyers wanted the landowner to register itself as the promotor of the project.

In August 2020, MahaRERA (Maharashtra Real Estate Regulatory Authority) decided that CCI Projects Pvt Ltd (CCIPL) should register Cable Corporation of India Ltd (CCIL) as the project’s promoter since it is the landowner. The developer and the

landowner went in appeal and in July the operative order was passed which directed the landowner, CCIL, to be registered as promoter within 30 days of it.



The tribunal dealt with a legal issue and held that although the operative part was pronounced in open court based on an unsigned draft by a member, the judgment was neither dictated in an open forum nor finally transcribed that day. Also, the draft part of the judgment dictated by the judicial member was after the pronouncement of the operative part, said the tribunal order by S R Jagtap (judicial member) and S S Sandhu (administrative member) on December 21.

In this case, the matter needs to be heard afresh and the tribunal stayed the July operative part, observing that the facts “are rather peculiar”. Once an operative order is passed, reasoned judgment follows and is given to the parties.

The developer CCI Projects Pvt Ltd wanted to challenge the July order, but was handicapped as the full reasoned judgment was not available since Sumant Kolhe, member (judicial), vacated office on August 3, 2021, on retirement.

Member (administrative) Sandhu who was on the earlier bench with judicial member Kolhe said though final on August 3 after the day's work, the judgment could not be signed and uploaded due to “unavoidable circumstances”.

Advocate Abir Patel for the developer said since the reasoned order was not dictated when the operative order was passed, the matters must be re-heard in appeal. Advocate Tanuj Lodha for the flat buyers' association cited the rules to say since the operative order was signed, the reasons already written could still be uploaded. He also cited a rule under the Civil Procedure Code for a successor to pronounce a judgment. The Maha RERA appellate tribunal said in this case, the rule is inapplicable since the record shows till date the “judgments written by the members are not ready in all respects”.