

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 3394 of 2022**

With

R/SPECIAL CIVIL APPLICATION NO. 3395 of 2022

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M/S. SAMKIT INFRACON THROUGH DHANESH BADARMAL JAIN & 1

other(s)

Versus

GUJARAT REAL ESTATE APPELLATE TRIBUNAL & 2 other(s)

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Appearance:

ABHISST K THAKER(7010) for the Petitioner(s) No. 1,2

MS RADHA A THAKER(11299) for the Petitioner(s) No. 1,2

for the Respondent(s) No. 1,2,3

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CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 16/02/2022

ORAL ORDER

Heard learned advocate Mr.Abhisst Thaker
appearing for the writ applicants.

The writ applicants are being aggrieved and
dissatisfied with the impugned order dated
24.03.2021 passed by the Gujarat Real Estate
Regulatory Authority in
CMP/Ahmedabad/200820/000195. The operative part
of the said order reads thus:-

1. *On the land bearing Survey No. 320/1, T.P. Scheme No.1/B, F.P. No. 151 of Mauje Bodakdev, Taluka – Ghatlodiya, District Ahmedabad, the respondent M/s. Samkit Infracon has laid a commercial scheme named as 'Alfa Business Park'. The order is issued against the respondents that, before 30/06/2021, the pending construction work, at Shop no.5, 6 and 7 on the ground floor which were booked by the applicant, be finally completed, their registered Sale Deeds be executed in favor of the applicant and their possession shall be handed over.*

2. *The respondents are also liable for completing the pending construction work of shop no.8 on the ground floor of this scheme and get its registered Sale Deed executed. But, for shop no.8, an unregistered Earnest Money Deed had been executed in favor of complainant's wife Ms. Janki Paritosh Patel on 22/08/2018. Later, on 02/08/2019, the respondents have executed a registered Earnest Money Deed in favor of the applicant. Further, Ms. Jankiben Paritosh Patel has lodged a complaint vide sr.no. CMP/AHMEDABAD/200107/00006, wherein the date has been determined as 18/03/2021. Therefore, under such circumstances, the decision with regard to the shop no.8 is not being taken along with the issuing of orders in the present complaint.*
3. *The permanent injunction is issued against the respondents that they shall not sell or in any manner, transfer or convey or create any encumbrance on the shop no. 5 to 8 located on the ground floor of the scheme.*
4. *The complaint with regard to the shop no. 105 and 106 located on the first floor is dismissed.*
5. *The parties shall bear their respective costs.*
6. *A copy of the order shall be provided to both the parties free of cost."*

Being aggrieved by the said order, the writ applicants preferred an Appeal before the Appellate Tribunal under Section 44 of the Regulation, 2016 on 08.04.2021. Learned advocate Mr.Thaker submitted that the Tribunal is not in force and not functioning at present. The private respondents have initiated Execution Proceeding No.40 of 2021. It is directed that the execution proceeding no.40 of 2021 be varied/adjourned till

the next date of hearing.

Issue notice making it returnable on
03.03.2022.

Direct service is permitted.

NABILA

(VAIBHAVI D. NANAVATI,J)