

Mudra Finance Ltd. and another  
V/s  
Vipul Garden Residence Welfare Association  
Caveat no.22 of 2022 IN  
Appeal No. 110 of 2022

Present: Ms Geeta Rani, Ld. proxy counsel for  
Shri Pradyuman Garg, Advocate,  
Ld. counsel for the appellant.

Shri Narender Kumar Sharma, Advocate,  
Ld. counsel for the respondent-Caveator.

Ld. proxy counsel for appellant has placed on file an order dated 28<sup>th</sup> July, 2022 passed by the Hon'ble High Court in CWP-16274-2022 titled as "Mudra Finance Ltd. and another vs. State of Haryana and others".

On being asked by this Tribunal, Ld. proxy counsel for the appellant promoter could not render any plausible explanation as to how the aforementioned order is relevant for the adjudication of the present appeal pending before this Tribunal, coupled with the fact that no stay order has been issued by the Hon'ble High Court.

Vide our order dated 07<sup>th</sup> July, 2022, the appellant-promoter was directed to deposit the requisite amount of Rs.4,79,09,644/- to comply with the provisions of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (for short, the Act). But as per office report and fact not disputed by Ld. counsel for the appellant, no amount has so far been deposited by the appellant with this Tribunal to comply with the aforesaid provisions of the Act.

It is settled principle of law that the provisions of proviso to Section 43(5) of the Act are mandatory. It is a condition precedent for entertainment of the appeal filed by the promoter to deposit the requisite amount. In the instant case, the appellant/promoter has not complied with the mandatory provisions of proviso to Section 43(5) of the Act in spite of sufficient opportunity. Consequently, the present appeal cannot be entertained and the same is hereby dismissed.

File be consigned to records.

Inderjeet Mehta  
Member (Judicial)  
Haryana Real Estate Appellate Tribunal  
Chandigarh

Anil Kumar Gupta  
Member (Technical)