

M/s Pioneer Urban Land & Infrastructure Ltd.

Vs.

Mayank Kumar Rastogi

Appeal No. 479 of 2019

Present: Shri Amit Jhanji, Advocate, Ld counsel for the appellant.
Shri Kailash Prshad Pandey, Advocate, Ld counsel for the respondent.

Vide our order dated 19.09.2019, the application moved by the appellant for waiver of the condition of pre-deposit was dismissed. The appellant/promoter was directed to deposit whole of the amount payable to the respondent/allottee as imposed by the Ld Authority, with this Tribunal on or before 17.10.2019. As per the report of the office no amount has been deposited so far by the appellant/promoter to comply with the order dated 19.09.2019 and the provisions of proviso to section 43(5) of the Haryana Real Estate (Regulation and Development) Act, 2016.

2. As per the report of the office only a demand draft of Rs.12,49,094/- has been deposited with this Tribunal whereas the appellant was required to deposit a sum of Rs.1,36,04,398/-. So, the deposit of only Rs.12,49,094/- is not the compliance of the provisions of proviso to section 43(5) of the Act and the order dated 19.09.2019 passed by this Tribunal.

3. It is settled principle of law that the provisions of proviso to section 43(5) of the Act are mandatory in nature. 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 inspite of

sufficient opportunity. Consequently, the present appeal cannot be entertained and the same is hereby dismissed.

4. The demand draft handed over by the appellant/promoter be returned under proper receipt.

5. File be consigned to records.

Justice Darshan Singh (Retd.)
Chairman,
Haryana Real Estate Appellate Tribunal,
Chandigarh
18.10.2019

Inderjeet Mehta
Member (Judicial)
18.10.2019

Anil Kumar Gupta
Member (Technical)
18.10.2019