

M/s Ansal Housing Limited Vs. Divya Lal  
Appeal No.288 of 2019

Present: Shri Abhinav Kansal, Advocate, Id. Counsel for the appellant.  
None for the respondent.

Vide our order dated 25.09.2019 the appellant/promoter was directed to deposit the whole of the amount payable to the respondent/allottee, imposed by the learned Haryana Real Estate Regulatory Authority, Panchkula (hereinafter called 'the Authority'), vide impugned order, with this Tribunal on or before 21.10.2019 in order to comply with the provisions of proviso to section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act').

But, as per the report of the office, the appellant/promoter has not deposited any amount to comply with the mandatory provisions of proviso to section 43(5) of the Act.

Learned counsel for the appellant states that the appellant has already preferred a civil writ petition against the order dated 25.09.2019 passed by this Tribunal and the said writ petition is to be taken up before the Hon'ble High Court on 23.10.2019.

It is settled principle of law that mere filing of writ petition or appeal does not automatically amount to staying the operation of the order passed by the court below. It is pertinent to mention that the present appeal was filed by the appellant/promoter on 16.05.2019 without depositing even a single penny to comply with the provisions of proviso to section 43(5) of the Act. The appeal was put up before this Tribunal for the first time on 03.06.2019. Since then, the appeal remained pending for disposal of the application moved by the appellant/promoter for waiver of the condition of pre-deposit which was dismissed by this Tribunal vide order dated 25.09.2019. Again, the appellant/promoter was granted time to deposit the

requisite amount up to 21.10.2019. In this way, the appellant/promoter has already availed more than sufficient time to comply with the provisions of proviso to section 43(5) of the Act.

Thus, the appellant/promoter has not complied with the provisions of proviso to section 43(5) of the Act which was a condition precedent for entertainment of the present appeal.

So, due to non-compliance of the mandatory provisions of proviso to section 43(5) of the Act, the present appeal cannot be entertained and the same is hereby dismissed.

File be consigned to records.

Justice Darshan Singh (Retd.)  
Chairman,  
Haryana Real Estate Appellate Tribunal,  
Chandigarh  
22.10.2019

Inderjeet Mehta  
Member (Judicial)  
22.10.2019

Anil Kumar Gupta  
Member (Technical)  
22.10.2019