

M/s Shree Vardhman Infra Home Pvt. Ltd

Vs.

Mohinder Singh Sangwan

Appeal No. 672 of 2019

Present: Shri Anurag Jain, Advocate, Ld counsel for the appellant.

Vide our last order dated 22.10.2019 the application moved by the appellant/promoter for waiver of the condition of pre-deposit was dismissed. The appellant/promoter was directed to deposit the whole of the amount payable to the respondent/allottee as imposed by the Ld Authority vide impugned order with this Tribunal on or before 07.11.2019 in order to comply with the provisions of proviso to section 43(5) of the Real Estate (Regulation and Development) Act, 2016.

2. As per the report of the office no amount has been deposited till date by the appellant/promoter.

3. Ld counsel for the appellant pleaded for extension of time on the ground that the appellant/promoter is passing through the difficult financial position.

4. We have duly considered the plea raised by Ld counsel for the appellant.

5. The present appeal was filed by the appellant/promoter on 26.08.2019, the same was put up before this Tribunal for the first time on 27.09.2019. Thereafter the case remained pending for adjudication of the application for the waiver of the condition of pre-deposit, moved by appellant, which was dismissed by this Tribunal vide order dated 22.10.2019 and the appellant/promoter was directed to deposit the whole of the amount payable to the allottee as imposed by the Ld Authority on or before 07.11.2019, so sufficient time has

already been granted to the appellant/promoter to comply with the provisions of proviso to section 43(5) of the Act by depositing the requisite amount. Thus, there is no justification to further extend time for depositing the amount. Thus, the request made by the Ld counsel for the appellant is hereby declined.

6. 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.

7. File be consigned to records.

Justice Darshan Singh (Retd.)  
Chairman,  
Haryana Real Estate Appellate Tribunal,  
Chandigarh  
08.11.2019

Inderjeet Mehta  
Member (Judicial)  
08.11.2019

Anil Kumar Gupta  
Member (Technical)  
08.11.2019