

M/s Emaar MGF Land Ltd. Vs. Atul Jain & others.
Appeal No.553 of 2019

Present: Shri Rana Gurtej Singh, Advocate, Id. Counsel for the appellant.

Vide our order dated 14.10.2019, the application moved by the appellant/promoter for waiver of the condition of pre-deposit was dismissed and the appellant/promoter was directed to comply with the provisions of proviso to section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act') by depositing the whole of the amount payable to the respondent no.1/allottee, as imposed by the learned Authority vide impugned order, with this Tribunal on or before 05.11.2019. As per the report of the office no amount till date has been deposited by the appellant/promoter.

Learned counsel for the appellant pleaded for extension of time on the ground that some of the promoters have filed appeals which are pending before the Hon'ble High Court with respect to the same matter.

We have duly considered the aforesaid contentions.

Mere this fact that some promoters have preferred appeals in other cases against the orders passed by this Tribunal dismissing the applications for waiver of the condition of pre-deposit in those cases, is no ground to extend the time for deposit of the requisite amount in the present appeal. So, the request made by learned counsel for the appellant is hereby declined.

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 inspite of sufficient opportunity. Consequently, 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
06.11.2019

Inderjeet Mehta
Member (Judicial)
06.11.2019

Anil Kumar Gupta
Member (Technical)
06.11.2019