

BPTP V/s Rajesh Kapoor

Appeal No. 599 of 2019

Present: Shri Hemant Saini, Advocate, Ld. counsel for the appellant.

As per the report of the office, the appellant-promoter has not deposited any amount to comply with the provisions of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (in short Act).

Ld. counsel for the appellant requests some more time to make the pre deposit as required to comply with the provisions of proviso to Section 43(5) of the Act.

We have duly considered the aforesaid plea. While filing this appeal, the appellant has not deposited any amount. Rather, an application for waiver of the condition of pre-deposit was filed. The said application was dismissed by this Tribunal vide order dated 21.01.2021 and the appellant was given time to deposit the requisite amount on or before 01.02.2021. Instead of depositing any amount, the appellant preferred an appeal to the Hon'ble High Court against the order dated 21.01.2021 passed by this Tribunal. The said appeal was disposed of by the Hon'ble High Court vide order dated 19.04.2022. The appellant was granted six weeks' time to deposit the amount as ordered by this Tribunal. The said period of six weeks has expired on 31.05.2022 but as per the report of the office, the appellant has not deposited any amount, so, the appellant has not complied with the stipulation laid down by the Hon'ble High Court in the order dated 19.04.2022. This Tribunal has no jurisdiction to enlarge or extend the period granted by the Hon'ble High Court to make the necessary pre-deposit. So, the request made by ld. counsel for the appellant is hereby declined.

The appellant-promoter has not complied with the mandatory provisions of proviso to Section 43 (5) of the Act, which is a condition precedent for entertainment of the appeal filed by the appellant.

Consequently, the present appeal filed by the appellant-promoter cannot be entertained. So, the same is hereby dismissed due to non-compliance of the provisions of proviso to Section 43 (5) of the Act.

File be consigned to the records.

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

Inderjeet Mehta  
Member (Judicial)

01.06.2022  
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