

Ramprastha Promoters & Development Pvt. Ltd.
Vs.
Pawan Gahlawat
MA No.6 of 2022
In Appeal No.71 of 2019

Present: None for the appellant.

Shri Shubhnit Hans, Advocate,
Ld. counsel for the respondent-applicant.

The present appeal was dismissed by this Tribunal vide order dated 29th August, 2019 due to non-compliance of the proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (for short, the Act).

2. The file was taken up again on 22nd April, 2022 on the basis of an application moved by the respondent-allottee for modification of order dated 29th August, 2019 to the extent that the amount which was deposited by the appellant-promoter with this Tribunal be transferred to the Ld. Haryana Real Estate Regulatory Authority, Gurugram (for short, the Authority) and be deposited in the account of the respondent-allottee. The appellant-promoter had preferred RERA Appeal No.31 of 2019 against the order passed by this Tribunal. The said appeal has been disposed of by the Hon'ble High Court vide order dated 19th April, 2022 and the appellant-promoter was granted six weeks' time to deposit the amount as ordered by this Tribunal. The period of six weeks had expired on 31st May, 2022.

3. As per office report, the appellant-promoter has not so far deposited any amount to comply with the proviso to Section 43(5) of the Act and the directions of the Hon'ble High Court. So, the order dated 29th August, 2019 dismissing the appeal of the appellant-promoter due to non-compliance of the proviso to Section 43(5) of the Act shall stand as it is.

4. Respondent-allottee has moved an application for modification of the Order dated 29th August, 2019 to the extent that the

amount deposited by the appellant be transferred to the Ld. Authority for transferring in the account of the respondent-allottee.

5. As per office record, a sum of Rs.7,19,346.30 was deposited by the appellant-promoter with this Tribunal being 30% of the amount imposed by the Ld. Authority to comply with the proviso to Section 43(5) of the Act. As the appeal filed by the appellant-promoter has been dismissed, so the respondent-allottee is entitled for the aforesaid amount. Thus, the application filed by the respondent-allottee is hereby allowed. The order dated 29th August, 2019 passed by this Tribunal is hereby modified and the amount of Rs.7,19,346.30, deposited with this Tribunal as pre-deposit, along with interest accrued thereon be sent to the Ld. Authority for disbursement to the respondent-allottee subject to tax liability, if any, as per law and rules.

6. Copy of this order be sent to the parties/Ld. counsel for the parties and the Ld. Haryana Real Estate Regulatory Authority, Gurugram for information and necessary compliance.

7. File be consigned to the record.

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

June 06, 2022
Manoj Rana

Inderjeet Mehta
Member (Judicial)