

CHD Developers Ltd.  
Vs.  
Atam Prakash Chugh  
Appeal No. 1462 of 2019

Present: Shri Ravi Aggarwal, Advocate, ld. counsel for the appellant. (through telephone)

Ld. counsel for the appellant has very fairly stated that the appellant could not deposit any amount with this Tribunal to comply with the provisions of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016. The application moved by the appellant for waiver of the condition of pre-deposit was dismissed by this Tribunal vide order dated 17.03.2020. The appellant was granted time to deposit the requisite amount on or before 18.04.2020. The appellant has preferred CWP No. 9121 of 2020 before the Hon'ble High Court against the order passed by this Tribunal. The said writ petition has been dismissed by the Hon'ble High Court vide order dated 16.10.2020. The appellant was granted time to deposit the requisite amount up to 16.11.2020. Ld. counsel for the appellant has stated that the appellant has filed the SLPs before the Hon'ble Apex Court. Even, the said SLPs have been dismissed by the Hon'ble Apex Court. However, the appellant was granted 30 days' time to make the pre deposit to comply with the provisions of proviso to Section 43 (5) of the Act. Even that period has already elapsed. But, no amount has been deposited by the appellant in compliance of the directions issued by the Hon'ble High Court/Hon'ble Apex Court and the statutory provisions of the Act.

It is a settled principle of law that the compliance of Section 43(5) of the Act is a condition precedent for entertainment of the appeal. The appellant has failed to comply with the mandatory provisions of proviso to Section 43(5) of the Act. So, the present appeal cannot be entertained. The same is hereby dismissed.

File be consigned to the records.

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

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)

05.07.2022  
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