

PROCEEDINGS OF THE DAY

Day and Date	Thursday and 25.08.2022
Complaint No.	E/1884/2022/1349/2021 Case titled Geeta Rana Vs Revital Reality Pvt Ltd.
Complainant	Geeta Rana
Represented through	Mr Jagdeep Kumar, Adv
Respondent	Revital Reality Pvt Ltd.
Respondent Represented through	Ms Ratna Dhingra Adv
Last date of hearing	
Proceeding Recorded by	S.L. Chanana

Proceedings

Heard on an objection filed by the respondent/JD against decree under execution. It is submitted by learned counsel for Objector/JD that order under execution was passed by Adjudicating Officer, who had no jurisdiction to decide matters of refund. It was Haryana Real Estate Regulatory Authority, Gurugram, which was empowered to decide cases of refund. A decree passed without jurisdiction is nullity and this issue can be raised at any stage, even during execution.

Learned counsel for Objector/JD explained that Haryana Real Estate Appellate Tribunal, Chandigarh(in brief Appellate Tribunal) while deciding a case titled as **Sameer Mahawar Vs MG Housing Pvt Ltd.** concluded that the learned Authority had no jurisdiction to adjudicate upon





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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

the issue regarding refund. Same directed that the complaints filed by the allottees seeking refund should be transferred to the Court of Adjudicating Officer. All such cases were thus transferred to the Adjudicating Officer, for disposal but the State of Haryana notified Haryana Real Estate(Regulation and Development) Amendment Rules, 2019 on 12.09.2019. Through Rules 28 & 29, the learned Authority was given the jurisdiction to entertain and adjudicate complaints seeking relief of refund. Validity of these rules was confirmed by the High Court of Punjab and Haryana at Chandigarh in case titled as **Experion Developers Pvt Ltd. Vs State of Haryana & Ors.** In this way, as per learned counsel only the Authority was empowered to try and entertain cases for refund and not the Adjudicating Officer.

As per learned counsel for decree holder, this forum was fully competent to decide the cases of refund after findings giving by the Appellate Tribunal in case referred above. Order passed by our own High Court in Experion Developer's case(supra) was stayed by the Apex Court and directions were given by Appellate Tribunal in Sameer Mahawar case were still binding.

There is no quarrel on the issue that plea of nullity of an order can be taken at any stage, even during execution proceedings.

It is not denied that order passed by our own High Court was stayed by Apex Court, though matter has been finally decided now. As discussed earlier, before findings given by Hon'ble High Court in Experion Developer's case(supra), cases of refund were used to be dealt by Adjudicating Officer and order of High Court was stayed by the Apex court. During this period of



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stay, till matter is decided by Apex court i.e. Newtech Promoters & Developers Pvt Ltd. Vs State of U P Etc in Civil Appeals No.6745-6749 of 2021, all such cases of refund were decided by Adjudicating Officer. Order under execution was also passed during this period. In this way, I find weight in the plea of learned counsel for decree holder stating that this forum i.e. Adjudicating Officer was fully competent to try and entertain the case, in which order under execution was passed.

I find no merit in objections raised by counsel for JD, about jurisdiction of this forum.

Objections are thus dismissed.

Let directors of JD be called in person before this forum for their oral examination about assets/properties of JD including details of bank accounts worth attachment.

To come on 18.10.2022 for further proceedings.


(Rajender Kumar)
Adjudicating Officer
25.08.2022