

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.41 of 2023

Spaze Towers Pvt. Ltd., registered office at Tower C, Spazedge,
Sector 47, Gurugram, Sohna Road, Gurugram 122 002

Appellant

Versus

1. Abhishek Sharma;

2. Binti Shara,

Both resident of House No.130, First Floor, Sector 5,
Vaishali, Gaziabad (Uttar Pradesh) 201 010

Respondents

CORAM:

**Justice Rajan Gupta
Shri Inderjeet Mehta
Shri Anil Kumar Gupta**

**Chairman
Member (Judicial)
Member (Technical)**

ORDER:

Rajan Gupta, Chairman:

Present: Ms. Tanya, Advocate,
for the appellant.

The present appeal came up for hearing before us
today. There is no delay in filing the present appeal.

2. We deem it fit to issue notice in this appeal.

3. Mr. Sukhbir Yadav, Advocate and Mr. Arun
Sharma, Advocate accept notice on behalf of the respondent.

4. As certain similar appeals were fixed before us
and we have heard arguments on the legal issues involved as
well as on facts therein.

5. We, thus, disposed of the present appeal in the
same terms.

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6. The appellant is aggrieved by the order dated 02.11.2022 passed by the learned Adjudicating Officer, Haryana Real Estate Regulatory Authority, Gurugram, operative part thereof is as under:-

“ld. counsel for JD contended further that decree holder has wrongly calculated the amount due. The authority had not allowed the interest to be paid, till the actual payments interest is required to be paid from 18.06.2016 to 01.02.2021 only. Executing court can not grant relief, beyond the decree. Again, as per Learned Counsel, JD is also entitled for interest on outstanding amount against DH.

It is clarified here that JD is also entitled for interest on the outstanding amount against DH at the same rate that 9.30 per cent per annum.

So far as plea of Learned Counsel for JD that authority did not allow the interest till the date of payment, rather allowed the same from 18.06.2016 to 01.02.2021, only, is concerned, the authority directed JD/respondent to pay amount within 90 days from the date of order. Admittedly, no such amount has been paid during this period of 90 days. In such circumstances, in my opinion, decree holder is entitled for interest, at the same rate i.e. 9.30 per annum. I find no merits in this objection raised by JD/respondent.

Objections of JD are thus disposed off. Learned Counsel for DH, requests to realize decretal amount by attachment & sale of properties of JD. He requests for direction to JD, in this regard. Request is allowed. JD is directed to disclose its asset/properties including Bank accounts, till next date. Information be given in the form of affidavit, to be sworn by anyone from the directors of JD, preferably by managing director. Copies of title deeds and statement of bank account be also provided, along with affidavit.”

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7. The main grievance raised by the learned counsel for the appellant is that the learned Adjudicating Officer has granted interest *inter alia* beyond 01.02.2021. According to her, the executing court could not have granted any relief beyond the decree. Besides she submits that the learned Adjudicating Officer has accepted the calculation sheet furnished by the respondent-decree holder without giving any detailed findings thereon.

8. Learned counsel for the respondent on the other hand submits that certain provisions of the Code of Civil Procedure i.e. Order 21 Rules 1 and 2 were referred to before the learned Adjudicating Officer, but these do not find mention in the order under challenge.

9. From the contentions made by learned counsel for both the parties, it is evident that both are agreeable that the impugned order does not deal with their detailed submissions, thus, they have no objection if the matter is remitted to the same authority i.e. learned Adjudicating Officer for decision afresh.

10. A perusal of the order shows that the submissions made by learned counsel for both the parties have not been elaborately dealt with. Under these circumstances, the matter is remitted to the Adjudicating Officer for decision afresh after affording opportunity of being heard to both the parties. Both the parties shall be at liberty to cite any precedent which they seek to place reliance upon.

11. The Adjudicating Officer shall endeavour to conclude the proceedings within two months from the date of this order.

12. Both the parties agree that they shall appear before the Adjudicating Officer on 27.03.2023.

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13. On appearance before the Adjudicating Officer the possibility of handing over the possession to the allottee may explored.

12. The appeal stands disposed of in the aforesaid observation.

13. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal
Chandigarh

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

13.03.2023
Manoj Rana