

**BEFORE THE HARYANA REAL ESTATE APPELLATE  
TRIBUNAL**

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**Appeal No. 833 of 2022  
Date of Decision: 10.04.2023**

BPTP Limited,  
Registered Office:  
OT-14, 3<sup>rd</sup> Floor, Next Door Parklands, Sector-76, Faridabad-  
121004.

Communication Address:

M-11, Middle Circle, Connaught Circus, New Delhi-110001.

Appellant

Versus

1. Shri Dharmender Kumar Phogat
2. Ms. Jyoti

Both residents of H.No.2126, HUDA Employees Colony,  
Sector-4, Gurugram, Haryana-122001.

Respondents

**CORAM:**

Justice Rajan Gupta	Chairman
Shri Inderjeet Mehta,	Member (Judicial)
Shri Anil Kumar Gupta,	Member (Technical)

**Present:** Shri Hemant Saini, Advocate,  
for the appellant.

Shri Arun Sharma, Advocate,  
for the respondents.

**ORDER:**

**RAJAN GUPTA, CHAIRMAN:**

The present appeal is directed against the order dated 28.10.2022 passed by learned Adjudicating Officer,

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Haryana Real Estate Regulatory Authority, Gurugram in Execution bearing No.EX/526/2019 titled “Dharmendra Kumar Phogat & Jyoti Vs. BPTP Limited” arising out of Complaint No.2051 of 2018. The same is reproduced below for ready reference:-

*“This is an application for revival of execution petition. It is submitted by the applicant/petitioner that decree under execution challenged by the JD both before the Appellate Tribunal and the High Court have already been dismissed. Citing all this, it is requested to revive the execution petition to realise the decretal amount. In view of facts mentioned above, request is allowed. Learned counsel for DH requests to attach bank account of JD, detail of which has already been given in the execution petition. Let Bank account No.914020008551735, Axis Bank, Statesman House, 148, Barakhamba Road, New Delhi, Bank Account No.409000372573, RBL Bank Ltd. M-6, Hauz Khas, New Delhi and Bank account No.252500003701, IndusInd Bank, Barakhamba Road, New Delhi. Managers of said banks be directed not to allow withdrawal of any amount from these accounts till further order. As per learned counsel for DH, none of these bank accounts of escrow accounts attached with any project of JD. Allowed. Report about balance in these bank accounts be also called for next date.*

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*To come on 10.01.2023 for further proceedings.”*

2. Mr. Saini, learned counsel for the appellant has vehemently contended that the impugned order was passed for freezing the bank accounts of the appellant without affording any opportunity of hearing to the appellant on revival application moved by the respondents before the Executing Court. He later filed an application (Annexure A4) before the Executing Court explaining the stand of the builder/developer M/s BPTP Limited. According to him, there are various prayers made in the application including the prayer for de-freezing the bank accounts.

3. Learned counsel for the respondents, on the other hand, submits that the order passed by the Executing Court is sustainable as the calculations submitted by him in his revival application were accepted by the Executing Court and the accounts were attached. He further submits that possession of the unit has not been handed over to the respondents.

4. We have heard learned counsel for the parties and given due consideration to their rival submissions.

5. As the matter is still pending before the Executing Court, we do not deem it fit to delve on all the issues. We, dispose of the matter with a direction to the Authority below to

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decide the entire matter including the application Annexure A4 moved by the appellant at the earliest, in any case, not later than two months.

6. Learned counsel for both the parties have agreed that various cheques of an amount of Rs.8,61,854/- were handed over by the appellant to the respondents which have been encashed.

7. We make it clear, before passing the final order by the Executing Court, an opportunity of hearing shall be afforded to both the parties. The parties shall be at liberty to raise all legal and factual issues which shall be dealt with.

8. In view of the above, no further adjudication of the matter is necessary. Appeal is hereby disposed of.

Announced:  
April 10, 2023

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal  
Chandigarh

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)