

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.198 of 2023
Date of Decision: 10.10.2023
Spaze Tower Pvt. Ltd., Tower-C, Spaxeedge, Sector 47, Sohna road,
Gurugram 122002

Appellant

Versus

Vivek Singh, Flat 101, Tower 4, Orchid Petals, Sector 49,
Gurugram, Haryana 122 018

Respondent

CORAM:

**Justice Rajan Gupta
Shri Anil Kumar Gupta**

**Chairman
Member (Technical)**

Present: Ms. Arpita Khandelwal, Advocate,
for the appellant

ORDER:

Rajan Gupta, Chairman (Oral):

The present appeal is directed against the order dated 05.01.2023 passed by the Haryana Real Estate Regulatory Authority at Gurugram (for short, the Authority). Order reads as under:

“This is a petition seeking execution of order passed by the Authority, in favour of DH/complainant. The authority through an order/resolution dated on 16.03.2022 delegated its powers to this forum to execute its orders. As per judgment of Hon’ble High Court of Punjab and Haryana, Chandigarh, in case tilted as M/s International Land Developers Pvt. Ltd. Vs. Aditi Chauhan and others CWP No. 7738 of 2022, and M/s International Land Developers Pvt. Ltd. Vs. Nitin Mathur and others CWP 7750 of 2020 for recovery of amount, in execution recovery certificate is required to be issued to the collector

concerned. Let file be sent back to the authority with a request to issue recovery certificate/further orders.

Be put up before the Authority on 09.02.2023.”

2. Admittedly, appellant-promoter has not made pre-deposit as envisaged in proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (for short, the Act). In the absence thereof, pleas on merits cannot be raised. The appeal, thus, deserves outright dismissal.

3. Nevertheless, we have also perused the order. The Executing Court has only observed that for recovery of amount in question, recovery certificate is required to be issued by the collector concerned. With these observations, he has referred the matter to the Authority at Gurugram for further necessary action. It is inexplicable as to how appellant can have any grievance against such an order. There is, thus, no infirmity with the impugned order. The appeal deserves to be dismissed.

4. Ordered accordingly.

5. Copy of this order be sent to the appellant/counsel for the appellant and the authority, Gurugram for information.

6. File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Anil Kumar Gupta
Member (Technical)