



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विभाग गृह, सिविल लाइन्स गुरुग्राम हरियाणा

PROCEEDINGS OF THE DAY

Day and Date	Monday and 29.01.2024
Complaint No.	E/1310/2023 Case titled Mukesh Nayar Vs. M/s Vatika Ltd.
Complainant	Mukesh Nayar
Represented through	Mr Abhijeet Gupta Adv
Respondent	Vatika Ltd.
Respondent Represented through	Ms Ankur Berry Adv
Last date of hearing	
Proceeding Recorded by	Jyoti Malik

Proceedings

File put up today, (27.01.2024, and 28.01.2024 being holidays), on an application filed by Sh. Kapil Dev (Bailiff of the authority).

This is a petition seeking execution of order passed by the authority dated 13.12.2022. Apart from giving some other directions the promoter/respondent was directed to execute conveyance deed of the allotted unit in favour of complainant/DH, within three months from the final offer of the possession alongwith Occupation certificate, upon payment of requisite stamp duty, as per norms of State Government.

On 25.09.2023, on an application filed by DH, with a prayer to send directors of JD to civil prison for not executing conveyance deed, as per

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अंतर्गत गठित प्राधिकरण
भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana नया पी. डब्ल्यू. डी. विभाग गृह, सिविल लाईंस गुरुग्राम हरियाणा

order under execution, show cause notice was ordered to be issued to the directors of JD as why same be not committed to civil prison for not complying with said order. Reply if any, was to be filed till next date which was 04.12.2023.No reply was filed by directors of JD, despite service of notice. Arrest warrants were ordered to be issued, to be executable by bailiff Mr. Kapil Dev.

Although as per Order XXI Rule 34 CPC where the decree is for the execution of document....., the DH is required to prepare a draft of document, in accordance with the terms of the decree and to deliver the same to the court. Clause 2, of Rule 34, obliges the court to cause the draft to be served on JD to invite his objections, if any. After deciding objections (if filed) the court is empowered to direct the execution of document, upon the proper stamp paper having been filed by the party concerned. As described above, the JD/respondent was asked to execute conveyance deed, within three months of final offer of the possession after getting OC. It is disclosed that neither construction of project/unit is complete nor OC has been received and hence there was no question of final offer of the possession. In such a circumstance, there is no use to ask the allottee/DH to submit draft of conveyance deed or to invite objections from respondent-JD. When construction is not complete. Conveyance deed cannot be registered of a unit which is not in existence even.

Considering all this, this forum (AO) thought it proper to issue show cause notice to directors of JD, as described above. The arrest warrants of the directors of JD were addressed to Sh. Kapil Dev. (bailiff of the authority).

AO

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016

Act No. 16 of 2016 (Enacted by the Parliament)

भू-संपदा (विनियामक और विकास) अधिनियम, 2016 (एनएच) द्वारा 2016 वर्ष में पारित किया गया अधिनियम
भारत की नया गृह मंत्रालय द्वारा 2016 में पारित किया गया अधिनियम

File is put up today on an application filed by said bailiff. It is submitted by bailiff that he went to ~~the~~ given address, assistant manager of JD Sh. Nitin Kumar met him there, who told that the directors were not available, being on leave and he (Assistant Manager) will inform whenever same are available. No such information is given by said assistant director till now. He was not allowed to enter inside.

He believes that the directors were very much present inside the office, but he was not allowed to go there. Citing all this, he requests for police assistance to get said directors arrested by him.

From the report given by the bailiff as well as from his submissions, it appears that the bailiff was not allowed to enter inside deliberately, that is to avoid arrest of the directors. In such a circumstance, it is necessary to provide police aid to the bailiff. Request is bailiff is allowed.

Deputy Commissioner of Police (head quarter) Gurugram is requested to provide police assistance to bailiff Sh. Kapil Dev, enough to facilitate him to arrest directors of JD.

Although, arrest warrants remain in force, unless withdrawn or executed. Same are neither withdrawn nor executed. Even then, let fresh arrest warrants ^{also} be issued against directors of JD to be executable by the bailiff, with the assistance of police. Directors be arrested and be produced before this forum, on or before next date fixed.

To come on 02.04.2024 for further proceedings.


(Rajender Kumar)
Adjudicating Officer
29.01.2024