

Sare Gurugram V/s Subir Kumar Dutta  
Appeal No. 22/2019

Present: Ms. Amisha Batra, Advocate, ld. counsel for the appellant.

Sh. Anuj Dewan, Advocate, ld. counsel for the respondent.

The application moved by the appellant for waiver of the condition of pre-deposit was dismissed by this Tribunal vide order dated 18.09.2019. This Tribunal directed the appellant to deposit whole of the amount payable to respondent /allottee imposed by the ld. authority on or before 14.10.2019. As per the report of the office, the aforesaid amount has not been deposited by the appellant/promoter.

It is settled principle of law that the provisions of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called "the Act") are mandatory. The deposit of the requisite amount is a condition precedent for the entertainment of the appeal filed by the appellant/promoter. In the instant case, the appellant/promoter has not complied with the provisions of proviso to Section 43(5) of the Act. So, the present appeal cannot be entertained and the same is hereby dismissed.

The 30% of the amount already deposited by the appellant/promoter be transferred to the Real Estate Regulatory Authority, Gurugram, for disbursement to the respondent /allottee as per law.

File be consigned to the records.

Justice Darshan Singh (Retd.)  
Chairman,  
Haryana Real Estate Appellate Tribunal,  
Chandigarh  
15.10.2019

Inderjeet Mehta  
Member (Judicial)  
15.10.2019

Anil Kumar Gupta  
Member (Technical)  
15.10.2019