

Athena Infrastructure Vs. Javed Khan  
Appeal No. 567 of 2019

Present: Shri Ajiteshwar Singh, Advocate, Id. Counsel for the appellant.

Vide our last order dated 16.09.2019, the appellant/promoter was directed to deposit the requisite amount to comply with the provisions of proviso to section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act'), on or before 14.10.2019. But as per the report of the office and the fact not disputed by the learned counsel for the appellant, no amount has been so far deposited by the appellant with this Tribunal to comply with the aforesaid provisions.

Learned counsel for the appellant has requested more time to comply with the provisions of proviso to section 43(5) of the Act. But sufficient time has already been granted to the appellant/promoter to comply with the above said provisions. There is no justification to further extend time to deposit the amount. So, the request made by learned counsel for the appellant is hereby declined.

It is settled principle of law that the provisions of proviso to section 43(5) of the Act are mandatory. It is a condition precedent for entertainment of the appeal filed by the promoter to deposit the requisite amount. In the instant case, the appellant/promoter has not complied with the mandatory provisions of proviso to section 43(5) of the Act inspite of sufficient opportunity. Consequently, the present appeal cannot be entertained and the same is hereby dismissed.

File be consigned to records.

Justice Darshan Singh (Retd.)  
Chairman,  
Haryana Real Estate Appellate Tribunal,  
Chandigarh  
16.10.2019

Inderjeet Mehta  
Member (Judicial)  
16.10.2019

Anil Kumar Gupta

Member (Technical)  
16.10.2019