

Aarcity Builders Pvt. Ltd. Vs. Vijay Kumar
Appeal No.418 of 2019

Present: Ms. Parul Chadha, Advocate, Id. Counsel for the appellant.
Ms. Sapna, Advocate, Id. Counsel for the respondent.

Vide our order dated 07.10.2019, the application moved by the appellant/promoter for waiver of the condition of pre-deposit was dismissed and the appellant/promoter was directed to deposit whole of the amount payable to the respondent/allottee, as imposed by the learned Authority vide impugned order, on or before 29.10.2019 with this Tribunal.

As per the report of the office, the appellant/promoter has not deposited any amount in compliance of our order dated 07.10.2019 and the provisions of proviso to section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act'), have not been complied with.

Learned counsel for the appellant has pleaded that the accounts of the appellant/promoter were attached by the learned Haryana Real Estate Regulatory Authority, Panchkula (hereinafter called 'the Authority') and due to this reason, the appellant/promoter could not deposit the amount.

We have duly considered the aforesaid contentions.

There is no material on the record to establish as to how many accounts were being maintained by the appellant/promoter and which account was attached by the learned Authority and how much amount was available in that account. There is also no material as to what extent the accounts of the appellant/promoter were attached. So, the contention raised by the learned counsel for the appellant is not supported by any documentary evidence and the same is hereby rejected.

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
30.10.2019

Inderjeet Mehta
Member (Judicial)
30.10.2019

Anil Kumar Gupta
Member (Technical)
30.10.2019