

Athena Infrastructure Ltd. Vs. Harish Kumar Dham & anr.

Appeal No.645 of 2019

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

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 respondents/allottees, as imposed by the learned Authority vide impugned order, on or before 30.10.2019 with this Tribunal. As per the report of the office, no amount has been deposited by the appellant/promoter.

Learned counsel for the appellant requests that the period for depositing the amount may be extended at least by 15 days as the amount could not be deposited due to financial crunch.

We have duly considered the aforesaid contention.

The appellant has already been granted more than sufficient time to deposit the requisite amount. The financial crunch is not a ground for extension of the period for depositing the requisite 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 Real Estate (Regulation and Development) Act, 2016 (hereinafter called '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
31.10.2019

Inderjeet Mehta
Member (Judicial)
31.10.2019

Anil Kumar Gupta
Member (Technical)
31.10.2019