

M/s Sana Realtor Pvt. Ltd.
Vs.
Mukesh Chellani
CM No. 594 of 2024
In Appeal No.540 of 2019

Present: Mr. Vineet Thakur, Advocate,
for the appellant.

Application CM No. 594 of 2024 has been filed for refund of amount of Rs. 4,11,350/- deposited with this Tribunal in Appeal No. 540 of 2019.

2. Learned counsel for the appellant, at the outset, submits that the aforesaid amount was erroneously deposited by the appellant as it was under the impression that only 30% of the total amount is required to be deposited in terms of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (for short, 'the Act') i.e. Rs. 13,50,852/- (in view of the order passed by the Authority).

3. It appears that the appellant had filed Appeal No. 540 of 2019 before this Tribunal, which was dismissed on the ground of non-compliance of proviso to Section 43(5) of the Act. The appellant preferred an appeal before the Hon'ble High Court by way of writ petition which was also dismissed on the same ground. The appellant, thus, filed SLP (C) 13005 of 2020 before the Hon'ble Supreme Court. Learned counsel for the appellant submits that vide order dated 13.05.2022, a period of 30 days was granted to the applicant-appellant to move an appropriate application before this Tribunal. However, learned counsel for the appellant is unable to produce a copy of the order passed in aforesaid SLP. Thus, fact remains that amount of Rs. 4,11,350/- was deposited as

the appellant claims that he intended to move an application for restoration of the appeal. It appears that Registry forwarded the demand draft submitted as pre deposit along with other appeals, to be kept in FDR.

4. It is evident that draft has been unnecessarily deposited by the appellant. It is inexplicable why such a demand draft was sent to the Registry of this Tribunal. Normally, in such cases, we would impose exemplary costs as there is no explanation forthcoming for deposit of the draft. Be that as it may the amount cannot be retained by this Tribunal. It is thus directed that same be refunded to the Authority along with interest accrued thereon for disbursement of the same to the appellant-promoter, subject to tax liability, if any, according to law.

5. Application (CM No. 594 of 2024) is disposed of in the aforesaid terms.

6. Application be tagged with the main file.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

23.07.2024
Manoj Rana