

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No. 140 of 2024
Date of Decision: 22.10.2024

Makarr Buildcon Private Limited Regd. Office at 262, Basant Vihar,
Scheme No. 3, Alwar-301001.

Appellant

Versus

1. Haryana Real Estate Regulatory Authority, Gurugram, Regd.
Office at New PWD Rest House, Civil Lines, Gurugram,
Haryana.
2. Adesh Kumar Jain R/o 181, Vaishali, Pitampura, New Delhi.
3. Nitin Jain R/o 181, Vaishali, Pitampura, New Delhi.
4. Splendor Buildwell Private Limited Regd. Office at 5th Floor,
Splendor Forum, Jasola District Centre, New Delhi-110025.

Respondents

CORAM:

**Justice Rajan Gupta
Shri Rakesh Manocha**

**Chairman
Member(Technical)**

Present: Mr. Sumesh Malhotra, Advocate,
for the appellant.

None for respondent no.1-HRERA.

Mr. Ashim Aggarwal, Advocate
for respondent Nos.2 & 3.

None for respondent No.4.

ORDER:

Rajan Gupta, Chairman (Oral):

Appellant is aggrieved by order dated 10.11.2023
passed by a single Member of the Authority¹ whereby appellant
was impleaded as a party to the proceedings before the Authority

¹ Haryana Real Estate Regulatory Authority, Gurugram

at Gruguram and certain subsequent orders dated 08.12.2023, 12.01.2024 and 16.02.2024 passed by the same Member.

2. It is contended that Order 1 Rule 10 of CPC was invoked in the matter without any application for impleadment moved by any party to the proceedings. Thereafter, one after another harsh orders were passed by the Authority without affording any opportunity of hearing to the appellant. Even a copy of the complaint was not furnished to him.

3. Mr. Aggarwal counsel appearing on behalf of respondent Nos.2 & 3 does not controvert the contentions that there was no application before the Authority under Order 1 Rule 10 of CPC for impleadment of the necessary parties. However, appellant cannot escape its liability in the facts and circumstances of the case.

4. We have heard learned counsel for the parties and given careful thought to the facts of the case.

5. It is evident that the Authority at Gurugram passed an order dated 10.11.2023 observing that it needed to examine the stand of the third party involved in the matter and invoked Order 1 Rule 10 of CPC for this purpose. Admittedly, no application was pending before the Authority in this respect. In our considered view the order dated 10.11.2023 is unsustainable in law and, thus, needs to be set aside.

6. Learned counsel for respondent Nos.2 & 3 on this aspect submits that the matter can be remitted to the same authority for decision afresh. As per him, proceedings are now being conducted before the Authority by three Members sitting together.

7. Therefore, Order dated 10.11.2023 is hereby set aside. Matter is remitted to the same Authority for decision afresh as per law.

8. At this stage, Mr. Sumesh Malhotra counsel appearing for the appellant (Makarr Buildcon Pvt. Ltd.) submits that in case called upon, it shall voluntarily participate in the proceedings before the Authority and respond to queries. However, certain observations made out of the context by the Authority in its orders dated 08.12.2023, 12.01.2024 & 16.02.2024 need to be expunged as it may influence the final order.

9. Mr. Aggarwal has not opposed this plea either. To allay the apprehension of learned counsel for the appellant, we direct the Authority would decide the matter on merits in light of its facts and circumstances without being swayed by any harsh observation made in orders dated 08.12.2023, 12.01.2024 & 16.02.2024. It shall be at liberty to expedite the proceedings to ensure their expeditious culmination.

10. Copy of this order be forwarded to HRERA, Gurugram.

11. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)

22.10.2024
Manoj Rana