

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

BEFORE ADJUDICATING OFFICER

EXECUTION NO. 2455 OF 2023 IN **COMPLAINT NO. 2383 OF 2022**

Sanjay Arora

....DECREE HOLDER

VERSUS

Raheja Developers Ltd.

.....JUDGMENT DEBTOR

Date of Hearing:- 09.12.2024

Hearing:-3rd

Present:-

Mr. Vikram Singh, Advocate, for the decree holders. None for the judgment debtor.



Today, case is fixed for providing details of the bank account of the judgment debtor by the decree holder for the purpose of attachment. The same has

not been provided yet.

Learned counsel for decree holder has stated that he is unable to locate 2. the bank account or property details of judgment debtor company and requested some more time for providing the same.

Case called several times but none has appeared on behalf of the judgment debtor. It is already 04:00 PM. No further wait is justified. Hence, the present execution petition is proceeded against <u>ex-parte</u> in view of the provisions of Order XXI Rule 105 of CPC, as this Forum while exercising the power under Section 40 of the RERA Act, 2016 read with Rule 27 of HRERA, Rules, 2017, is competent to act as a Civil Court, to execute the order as if it is a decree.

3. Decree holder is directed to file bank account/property details of judgment debtor company for the purpose of the attachment duly supported by an affidavit in support thereof, so that only the verified bank account/property of the judgment debtor is legally got attached in accordance with law, for recovery of the decretal amount. As per settled proposition of law laid down in <u>City Bank, N.A v/s</u> <u>Indo-American Electrical Ltd. AIR 1981 Del 27</u>, "as a general rule, territorial jurisdiction is a condition precedent to a Court executing a decree and neither the Court which passed the decree nor the Court to which it is sent for execution can execute it in respect of the property lying outside its territorial jurisdiction." However, such details must be duly supported by an affidavit of the decree holder to say that the details of the bank account/property sought to be attached legally stand in the name of judgment debtor. Such directions have been passed to ensure that the property standing in the name of judgment debtor is only got attached. It is

further directed that the details of "Separate account" (ESCROW account), which is to be utilized for the construction of the project, should be avoided because legally its attachment order may cause prejudice to the other co-allottees of the project. In alternate, decree holder may move an application under Order 21 Rule 41 Civil Procedure Code or any other relevant provision provided under Civil Procedure Code, to get the execution satisfied at the earliest.

4. Consequently, the decree holder is directed to provide verified details along with an affidavit within 15 days from today. On filing of the list and the affidavit, let warrant of attachment be issued returnable on or before 06.03.2025. It shall be last opportunity.

MAJOR PHALIT SHARMA ADSJ(Retd.)

ADJUDICATING OFFICER

09.12.2024