

**BEFORE THE HARYANA REAL ESTATE APPELLATE  
TRIBUNAL**

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**Appeal No. 144 of 2024**

**Date of decision:12.12.2024**

Vipul Gardens Residents Welfare Association, Dharuhera through its President Kanwar Singh, authority holder of 142 residents of Tower No. 8, 9 and 10 in Vipul Gardens Society, Flat No. 1102, Vipul Gardens, Tower-I, Sector-1, NH-08, Dharuhera, District Rewari (Haryana)

Appellant.

Versus

1. M/s Mudra Finance Ltd. Company, G-12/A, First Floor, Hauz Khas, New Delhi-110016.

2. Vipul Tech. Square, Corporate Office: Golf Course Road, Sector 43, Gurugram (Haryana)-122002.

Respondents

**CORAM:**

**Justice Rajan Gupta  
Rakesh Manoch**

**Chairman  
Member (Technical)**

**Present:**

Mr.Narender Kumar Sharma, Advocate  
for the appellant.

Mr.Vineet Sehgal, Advocate  
for the respondent.

**ORDER:**

**JUSTICE RAJAN GUPTA, CHAIRMAN**

The present appeal is directed against the order dated 1.02.2024, passed by Adjudicating Officer<sup>1</sup>, operative part whereof reads as under:

*“7. Though, it was observed that if any of the allottee has taken possession of his booked apartment where Occupation*

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<sup>1</sup> Adjudicating Officer, Haryana Real Estate Regulatory Authority, Panchkula

*Certificate has not been granted, then he is also entitled to claim such delay interest from the period of deemed date of possession to actual date of possession, undoubtedly it has been written, yet it has been mentioned specifically that such allottee is entitled to claim such delay interest from the period of deemed date of possession to actual date of possession. Meaning thereby the allottee has to claim such delay interest and without claiming such delay interest, it cannot be granted to him or any of the allottees out of 162 allottees of Towers 8, 9 and 10. When the complaint was filed by Residents Welfare Association, it is all the more necessary that the allottees have to claim delay possession interest specifying their claim. All the allottees might have paid different amounts on different dates. All of them have to mention the amount paid and the date of taking possession and calculating such delay possession interest. In execution, neither the names of parties can be changed nor the allottees who have not raised their claim, can be granted delay possession interest.*

*8. With these observations, the objections filed by judgment debtor with regard to delay possession interest are allowed. Adjourned to 18.04.2024 for remaining compliance by judgment debtor.”*

2. Admittedly, execution proceedings are still pending before the competent court. Mr. Sharma, at the out-set, submits that observations have been made by the Adjudicating Officer in the impugned order, which are not warranted and are likely to affect the final decision of the matter. The case should have been disposed of in one go by the executing court. Besides, the order is not happily worded. On the basis of same, rights of the parties cannot crystallize. He further submits that the order be set aside and remitted to the authority for decision afresh along with pending execution proceedings.

3. Mr. Sehgal submits that Residents Welfare Association was granted certain reliefs by the Authority but DPC was not granted as the allottees did not approach the Authority in their individual capacity. He, however, admits that there is no Occupation Certificate in respect of three Towers No. 8, 9 and 10 in the project floated by respondent-Vipul Tech. Square. He, however, admits that execution proceedings are still pending before the court below.

4. Having heard learned counsel for the parties and giving careful thought to the facts of the case, it appears that execution proceedings ought to have been decided by one single order and not by piece-meal observations. Besides, the observations contained in paragraph No. 7 of the impugned order lack clarity and do not deal with all the issues including the fact that Occupation Certificate in respect of Towers No. 8, 9 and 10 was not available. It is also not clear what necessitated passing of an order of this nature during the pendency of execution proceedings.

5. Under these circumstances, the order under appeal is hereby set aside. The matter is remitted to the Adjudicating Officer for decision afresh after affording opportunity of hearing to both the parties. The Tribunal expects that execution proceedings would be decided by a comprehensive order as per law.

6. The appeal is allowed in the aforesaid terms.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Rakesh Manocha  
Member (Technical)

December 12, 2024.

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