

SS Group Pvt. Ltd.  
Vs.  
Surinder Singh Mehndiratta  
CM No. 402 of 2024  
In Appeal No.294 of 2019

Argued by: Mr.Yash Pal Sharma, Advocate,  
for the appellant.

Ms. Gurpreet Randhawa, Advocate,  
for the respondent.

**CM No.402 of 2024**

Application CM No.402 of 2024 has been filed for refund of amount of Rs.36,22,596/- deposited by the appellant-promoter as pre-deposit with this Tribunal in Appeal No. 294 of 2019.

2. Learned counsel for the applicant-appellant, at the outset, submits that initially the applicant-appellant filed appeal against the order dated 11.12.2018 passed by the Haryana Real Estate Regulatory Authority, Gurugram without any pre-deposit as envisaged by proviso to Section 43(5) of the RERA Act, which was dismissed by the predecessor Bench of this Tribunal vide order dated 17.10.2019, same reads as under:

*“Vide our last order dated 20.09.2019, the appellant/promoter was directed to deposit the requisite amount to comply with the provisions of proviso to section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called ‘the Act’), on or before 16.10.2019. But as per the report of the office and the fact not disputed by the learned counsel for the appellant, no amount has been so far deposited by the appellant with this Tribunal to comply with the aforesaid provisions.*

*It is settled principle of law that the provisions of proviso to section 43(5) of 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 in spite of sufficient opportunity. Consequently, the present*

*appeal cannot be entertained and the same is hereby dismissed.*

*File be consigned to records.”*

3. Thereafter, the appellant-promoter moved an application dated 11.11.2020 for recalling/review of the aforesaid order along with pre-deposit. But, the same was never listed for hearing due to Covid-19 pandemic.

4. After a lapse of almost 4 years, he has moved instant application dated 16.01.2024 for refund of the amount deposited with this Tribunal on the plea that matter had been settled between the parties. Alongwith application, he has annexed a settlement agreement as Annexure A/2.

5. Notice of CM was issued on 25.04.2024. In pursuance thereto, respondent appeared on 22.10.2024 and the following order was passed:

*“Ms. Gurpreet Randhawa, Advocate has put in appearance on behalf of the respondent and filed her Power of Attorney.*

*Mr. Chopra refers to the application seeking refund of the amount deposited along with appeal, in view of settlement stated to have been arrived at between the parties. He submits that the amount of Rs.36,22,596/- by way of demand draft No. 843640 dated 04.11.2020 was deposited in the Registry. Admittedly, appeal was dismissed vide order dated 17.10.2019 on the ground that mandatory requirement of pre-deposit had not been met. It is not clear as to how pre-deposit was accepted thereafter.*

*Report be sought from the OSD (Judicial) in this regard.*

*List on 28.11.2024. for further hearing.”*

6. In light of aforesaid order, Registry has submitted its report. As per same, the amount was deposited without any specific

order of this Bench. It is evident that a draft for Rs.36,22,596/- was deposited by the applicant-appellant vide DD No.843640 dated 04.01.2020.

7. In view of above, the court cannot overlook the sheer wastage of judicial time caused by the unwarranted conduct of the appellant-promoter. This not only delays the adjudication of genuine cases, but also places an undue burden on the registry to maintain unnecessary files.

8. It is, thus, directed that pre-deposit 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. This, however, be subject to payment of Rs.30,000/- as costs of proceedings payable to **Poor Patients' Welfare Fund, PGIMER, Chandigarh**. Costs have been imposed in view of the conduct of the applicant as enumerated in Para 7 above. Receipt thereof be produced before this Tribunal within one month from the date of this order. This imposition serves as a reminder that the precious time and resources of the court must be utilized judiciously and not squandered.

9. Application (CM No.402 of 2024) is disposed of in the aforesaid terms.

10. The concerned official of this Tribunal is directed to release the amount after verifying the receipt of costs imposed as above.

11. File be consigned to the records.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Rakesh Manocha  
Member (Technical)  
(joined through VC)

Announced  
29.01.2025  
Manoj Rana