



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

EXECUTION NO.2868 OF 2022

IN

COMPLAINT NO. 719 OF 2019

Kamal Dhamija & Rakhi Dhamija

.....Decree holders

VERSUS

TDI Infrastructure Ltd.

...Judgment Debtor

CORAM: Parneet Singh Sachdev
Nadim Akhtar
Dr. Geeta Rathee Singh
Chander Shekhar

Chairman
Member
Member
Member

Date of Hearing: 10.07.2025

Present: Mr.Kamal Dhamija, decree holder in person.
Mr. Roopak Bansal, Adv., for the decree holders through VC.
Mr. Shubhnit Hans, Adv., for the judgment debtor through VC.

ORDER:

1. This order of the Authority, will dispose of two issues raised before it; firstly, “whether in view of observations made by this Authority in its order dated 28.05.2025, the request of the decree holders to seek interest on delayed payment in the peculiar circumstances of the present case, is maintainable? ”; And, “if the answer to the first issue is in negative, whether or not present execution could further be proceed with?”

2 (A) Whether in view of observations made by this Authority in its order dated 28.05.2025, the request of the decree holders to seek interest on delayed payment in the peculiar circumstances of the present case, is maintainable ?

This Authority has heard arguments in respect of the query raised by this Authority vide its previous order dated 28.05.2025, the contents of which shall form part of this order. Through said query, a question was raised to the learned counsel for decree holders as to why this execution be not disposed of being fully satisfied in view of the compliance of order dated 07.02.2025 passed by the Hon'ble Appellate Tribunal in its letter and spirit?

(i) In reference to the query raised, learned counsel for the decree holders, argued that observations made by the Authority in its order dated 28.05.2025 to the effect that allottees/respondent would be satisfied on the receipt of the refund amount, are practically incorrect because had it been the case Hon'ble Appellate Tribunal would have specified as to how much amount to be remitted for satisfaction of execution and also that who would be entitled to receive the same, which issues have rather been left open to be decided by Executing Court after giving parties opportunity of hearing. He has further argued that the issue of total amount to be received by the decree holders in the execution

was never decided in appeal, thus it is yet to be decided by the Executing Court while considering the request of the decree holders for grant of interest on the delayed payment besides the decretal amount. He has further argued that learned Authority has wrongly misinterpreted the order of Hon'ble Appellate Tribunal to hold that on receipt of the amount of the order under execution, the decree holders would be satisfied because there is clear difference between the amount decided by the Authority and amount calculated by the Authority. He has further argued that since the judgment debtor had no merits in its appeal, as is evident from its conduct before the Hon'ble Appellate Tribunal during appeal, and, on the contrary the decree holders are entitled to get the interest in the manner entitled to as per the provisions of Section 18 of the Act, 2016, read with Rules 15 & 16 of HRERA Rules, 2017 and definition of interest in Section 2(za) of the Act, 2016, till the realization of the amount payable, the amount so deposited by the judgment debtor before Hon'ble Appellate Tribunal cannot be treated to be full and final payment of the amount due against the judgment debtor. In addition thereto, he has argued that the execution would be satisfied only when payment is made as per the provision of the Act and Rules in its letter and spirit. He has further argued that the query so raised by Hon'ble Authority would cause prejudice to the interest of decree holders who are still entitled for interest on delayed payment as applied for, moreso when there is no mention of any waiver or abandonment of statutory/contractual interest

for the delayed period on the part of the decree holders before Hon'ble Appellate Tribunal. He has also argued that right to claim interest on delayed payment still remains with the decree holders as was not curbed by Hon'ble Appellate Tribunal, because order dated 07.02.2025 of Hon'ble Appellate Tribunal was to get disposal of execution petition expedited by making its disposal time bound and not to modify the decree by stripping interest. In other words, he has argued that claimants consent for early disposal cannot be misconstrued as a compromise against actual entitlement. Finally, he has argued that the decree holders not only are entitled to get interest on delayed payment but, also the judgment debtor liable to be penalised under Section 63 read with Section 69 of the Act, 2016, in accordance with law. At the end, in nutshell, prayer is made not to dispose of the execution being fully satisfied, as the decree holders never undertook before Hon'ble Appellate Tribunal to waive its right to claim interest on delayed payment till realization of the entire amount.

(ii) On the other hand, learned counsel for the judgment debtor has argued that once the decree holders had consented to receive the amount of refund due to allottee as per order dated 08.07.2022 of the Hon'ble Authority and because of such commitment, Hon'ble Appellate Tribunal, disposed of the appeal having in mind the understanding arrived at between the parties but not on merit, there remains no right with the decree holders to claim further interest, because by

getting the appeal disposed of not on merit, the decree holders has avoided an adverse order to be passed in appeal against it as the judgment debtor had merit therein. He has further argued that it being a case disposed of by Hon'ble Appellate Tribunal, not on the basis of merit, but on the basis of understanding arrived at between the parties wherein one i.e judgment debtor, knowingly fully well made offer and another i.e. decree holders, accepted the one without any rider, now neither of the parties can retract from its understanding given to get more financial benefit, if any, moreso when compliance of order of Hon'ble Appellate Tribunal has been made on the part of judgment debtor and the decree holders has also received the amount with interest accrued in the Bank. He has also argued that raising of claim for additional interest is contemptuous in the case in hand as is legally not permissible. Finally, he has prayed to dispose of the execution, it being fully satisfied.

(iii) This Authority has gone through the proceeding before it which includes the order dated 07.02.2025 passed by Hon'ble Appellate Tribunal while disposing of the appeal but not dismissing or accepting the same on merit, the application of the decree holders seeking interest on delayed payment, observation of the Authority made in its previous order dated 28.05.2025, and then the arguments advanced for and against by the respective counsels.



At the outset, it is apt to note here that any judgment or order of a judicial or quasi-judicial Authority has to be read in toto and is to be implemented in the manner as decided without giving it any additional meaning or interpretation. Similarly, the question of grant of interest on delayed payment is certainly a factor to be considered in a case where such issue could legally be raised and considered. In other words, in a case wherein a contentious issue has been settled between the parties because of an understanding arrived at between the two before any judicial or quasi-judicial Forum with an aim to get the matter settled for the all times to come, there is implied as well as express undertaking on the part of the contesting parties that they intend to get the matter disposed of at the earliest without going into the merits of the case or without getting involved in further litigation, the right to pursue which they may have in future in one form or the other. In simple words, the purpose of getting a matter amicably settled means parties do not intend to go into further litigation in any form, even if they could and anyone later retracting or trying to look for additional benefit can't legally be permitted.

(iv) Reverting back to the facts of the case under consideration, this Authority do not see merit in the arguments advanced by learned counsel for the decree holders that Hon'ble Appellate Tribunal vide its order dated 07.02.2025 had left right for the decree holders open to claim interest on delayed payment even on

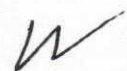
receipt of the amount deposited by judgment debtor in compliance of order dated 08.07.2022. For the sake of repetition, it is observed that the appeal was disposed on dated 07.02.2025 on the basis of acceptance by the decree holders of the offer made by the judgment debtor, to enable Hon'ble Appellate Tribunal to dispose of the matter in the manner parties desired without giving any liberty to the decree holders to claim benefit, if due, after disposal of appeal provided judgment debtor stick to its offer which it did.

The contention of the learned counsel for the decree holders that the amount so deposited by the judgment debtor as per the order under execution, cannot be treated to be the amount as decided by the Authority for its remittance to the decree holders for their satisfaction as the amount decided by Hon'ble Appellate Tribunal is not as per the amount calculated by the Authority, do not stand to logic. Once, the Appellant Company had undertaken to refund the amount due to allottee as per order dated 08.07.2022, practically and logically it had offered to deposit the amount to be calculated in the manner order dated 08.07.2022 warranted. The record speaks that the amount so deposited and finally received by the decree holders in the execution after disposal of appeal, comes to the same in respect of which order dated 08.07.2022, was passed, which includes the Principle Amount plus Interest as per order. If this be so, claim for the decree holders that Authority had decided some other amount but calculated otherwise, is

a wrong connotation presented for the decree holders, to create a new financial liability against the judgment debtor which the decree holders in the special circumstances of present case, had logically waived to claim.

Rather, it is a case, wherein the decree holders has tried to resile from an assurance given before the Hon'ble Appellate Tribunal to get the matter disposed of at that time, and such action on the part of the decree holders, legally requires initiation of action for making reference to start proceedings of Civil Contempt, which this Authority would desist to propose in this peculiar case, treating it to be an innocent attempt on the part of the decree holders. Here, it would be appropriate to quote the law laid down by Hon'ble Apex Court in "Balwantbhai Somabhai Bhandari v/s Hiralal Somabhai" 2023 SCC OnLine SC 1139, wherein while dealing with case of resiling of a party or her counsel from an undertaking or assurance given before the Court, it has observed in the following manner;

"73. An undertaking or an assurance given by a lawyer based upon which the court decides upon a particular course of action would definitely fall within the confines of "undertaking" as stipulated under Section 2(b) of the Act, 1971 and the breach of which would constitute "civil contempt". As held in M. v. Home (supra) relied upon by this Court in Rama Narang (supra) that if a party or solicitor or counsel on his behalf, so as to convey to the court a firm conviction that an undertaking is being given, that party will be bound and it will be no answer that he



did not think that he was giving it or that he was misunderstood. The breach of an undertaking given to a court by a person in a pending proceeding on the faith of which the court sanctions a particular course of action is misconduct amounting to contempt."

What does an "undertaking" means has been discussed in the Osborn's Concise Law Dictionary in the following manner;

"A person, especially a promise in the course of legal proceedings by a party or his counsel, which may be enforced by attachment or otherwise in the same manner as an injunction."

For the sake of repetition, the relevant observations made in M v/s Home Office (1992) Q.B. 270, in the form of an issuance of a caution on how an undertaking would be treated, are also reproduced below;

"If a party, or solicitors or counsel on his behalf, so act as to convey to the court the firm conviction that an undertaking is being given, that party will be bound and it will be no answer that he did not think that he was giving it or that he was misunderstood."

The above discussed law, if applied in the case in hand, makes it categorically clear that only when Hon'ble Appellate Tribunal was made to be



believe that the decree holders there were ready to accept the offer in the manner made by the judgment debtor, it had disposed of the matter on the basis of such understanding without going into the merits of the appeal. In other words, only when the decree holders assured in judicial proceedings that if the judgment debtor follow its offer, they would be satisfied and consequently, Hon'ble Appellate Tribunal ensured that the judgment debtor deposit the amount as offered, such assurance of the decree holders is nothing but an "undertaking" within the meaning of legal dictionary as discussed above and any deviation therefrom later, amount to civil contempt within the meaning of the law laid down in Balwant Bhai's case (supra) and M v/s Home officer's case (supra). Resultantly, now in the case in hand, after disposal of the appeal because of understanding arrived at between the parties there, the decree holders cannot claim that they did not waive their right to claim interest on delayed payment. Otherwise also, if the decree holders were interested in getting the interest on delayed payment as claimed separately now, they would have had put such specific request before Hon'ble Appellate Tribunal at the time of disposal of appeal to get such right of their reserved to be agitated before the Executing Court, which is not the case in hand. Hence, without there being any specific directions of the Hon'ble Appellate Tribunal in this regard, the Executing Court cannot infer that the decree holders has right to get interest on delayed payment in addition to the compliance of order under execution, which



otherwise is fully satisfied in its letter and spirit. It is not out of place to mention here that the decree holders has got total amount of refund of ₹60,03,110/- plus interest accrued thereon as long as this amount remained deposited with Bank under orders of the Appellate Tribunal, which means there is no much of financial loss to the decree holders, even if academically entitled to interest on delayed payment, though legally not.

(v) Learned counsel for the decree holders has also tried to project that Hon'ble Appellate Tribunal had ordered for disposal of execution in time bound manner after giving opportunity of hearing to decree holders, which means decree holders are to be heard on their request for interest on delayed payment, it being due.

This Authority on this point is of the view that purpose to make disposal of the execution time bound, was to get it disposed of at earliest and right to hearing was ordered to be given to get the matter finally settled in the manner observation made by Hon'ble Appellate Tribunal in its order dated 07.02.2025. Moreover in its order dated 07.02.2025 at para 6, Hon'ble Appellate Tribunal has separately mentioned about the remittance of the amount by the Bank to the Authority for its disbursement as per entitlement and question of entitlement itself is answered by Hon'ble Appellate Tribunal in its order dated 07.02.2025, with observations that




judgment debtor's offer is accepted by decree holders for their satisfaction on receipt of the amount due to the allottees as per the order dated 08.07.2022, which means the decree holders were entitled to get the amount deposited as per order dated 08.07.2022, and on receipt of this amount, order dated 07.02.2025 of the Hon'ble Appellate Tribunal stood fully complied with.

In view of the foregoing discussions, the request of the decree holders for the additional interest on delayed payment is found devoid of merit in peculiar circumstances of the case under consideration. Resultantly, the first issue is decided against the decree holders as they are not entitled to claim additional interest on delayed payment.

2(B) "If the answer to the first issue is in negative, whether or not present execution could further be proceed with?"


Once, the first issue is decided in negative as there is due compliance of order dated 07.02.2025 on the part of the judgment debtor and the decree holders are also in receipt of the amount due as per order dated 08.07.2022, there remains nothing to peruse on the part of the decree holders to get anything more in the present execution. Hence, the present execution petition is **disposed of being fully satisfied.**

3. File be consigned to record room after uploading the order on the website of the Authority.


CHANDER SHEKHAR
[MEMBER]


DR. GEETA RATHEE SINGH
[MEMBER]


NADIM AKHTAR
[MEMBER]


PARNEET SINGH SACHDEV
[CHAIRMAN]