

**M/s HDFC Ltd. Vs. Mohit Manchanda**  
**Appeal No.366 of 2019**

Present: Ms. Parul Chadha, Advocate, for Shri Shekhar Verma, Advocate, learned counsel for the appellant.  
Shri Arun Singla, Advocate, ld. Counsel for respondents no.1 to 3.  
Shri Hemant Saini, Advocate, ld. counsel for respondent no.4.

During the course of proceedings in the present appeal, it was brought to our notice that Civil Writ Petition No.12237 of 2019 has been filed by the respondent no.4. We have requested learned counsel for the parties to produce the copy of the writ petition and the order passed by the Hon'ble High Court.

2. The Division Bench of the Hon'ble High Court has passed the order dated July 17, 2019 in the said writ petition as under: -

*“Learned counsel for the respondents have brought to the notice of this Court that against the order passed by the RERA, appeals have been filed which are still pending and dates are being taken in those cases because of pendency of this writ petition whereas, learned counsel for the petitioners submits that claim in appeals and the present petition is totally different. In the present petition, the prayer is for quashing of Sections 13, 18 and 19 (4) of the Real Estate (Regulation and Development) Act, 2016 as well as Rules 8 and 15*

*of the Haryana Real Estate (Regulation and Development) Rules, 2017 only to the extent of their retrospective operation and this petition is maintainable.*

*Keeping in view the submissions made by learned counsel for the parties and also the fact that learned counsel for the respondents have sought time for filing reply, it is made clear that the interim order passed in this petition is not going to affect the Appellate Authority in passing any order. A copy of this order be sent to the Appellate Authority.*

*Adjourned to 25.9.2019.*

*Reply on behalf of the respondents be filed meanwhile.*

*The Appellate Authority is directed to consider the appeals in accordance with law without being influenced with the pendency of this writ petition and interim order passed by this Court.”*

3. As per the aforesaid order, this Tribunal has been directed to consider the present appeal in accordance with law without being influenced with the pendency of the writ petition and interim order passed by the Hon'ble High Court.
4. Heard on the main appeal.
5. The present appeal has been preferred by the appellant Housing Development Finance Corporation

Limited being aggrieved with the impugned order dated 07.02.2019 passed by the learned Haryana Real Estate Regulatory Authority, Gurugram. The main grievance of the appellant is that the learned Authority has ordered to refund the amount to be paid to the complainants i.e. respondents no.1 to 3/allottees.

6. This fact is not disputed that the respondents no.1 to 3/allottees have availed the loan facility from the appellant-Corporation and the parties have entered into a tripartite agreement dated 21.11.2013. Thus, as the appellant-Corporation has granted the loan facility to the respondents no.1 to 3/allottees, so naturally the appellant-Corporation will have the first right over the amount to be refunded by the respondent no.4 to the respondents no.1 to 3/allottees.

7. Learned counsel for the respondents no.1 to 3 has very clearly conceded that he has no objection if the impugned order is modified to this extent that out of the amount to be refunded, first the claim of the appellant-Corporation may be satisfied and the remaining amount may be disbursed to the respondents no.1 to 3/allottees.

8. So, the impugned order dated 07.02.2019 is hereby modified that out of the amount to be refunded by the respondent no.4 to the respondents no.1 to 3/allottees,

firstly the claim of the appellant-Corporation shall be satisfied as per the tripartite agreement dated 21.11.2013 and the loan documents and the remaining amount shall be disbursed to the respondents no.1 to 3/allottees in accordance with law. With this modification/observation, the appeal stands disposed of.

9. File be consigned to records.

Justice Darshan Singh (Retd.)  
Chairman,  
Haryana Real Estate Appellate Tribunal,  
Chandigarh  
28.01.2020

Inderjeet Mehta  
Member (Judicial)  
28.01.2020

Anil Kumar Gupta  
Member (Technical)  
28.01.2020