

**BEFORE THE HARYANA REAL ESTATE REGULATORY
AUTHORITY, GURUGRAM**

Complaint no. : 2556 of 2024
Date of complaint : 31.05.2024
Date of order : 20.08.2025

1. Prateek Sindhu,
2. Neetu Singh,
Both R/o: - House No. 74, Ward No. 19,
Gohana Adda, Rohtak.

Complainants

Versus

M/s Loon Land Development Limited
Regd. Office At: 1221-A, Devika Tower, 12th Floor,
Nehru Place, New Delhi-110019.

Respondent

CORAM:

Ashok Sangwan

Member

APPEARANCE:

Sushil Yadav (Advocate)
Shriya Takkar (Advocate)

**Complainants
Respondent**

ORDER

1. The present complaint has been filed by the complainant/allottees under section 31 of the Real Estate (Regulation and Development) Act, 2016 (in short, the Act) read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (in short, the Rules) for violation of section 11(4)(a) of the Act wherein it is *inter alia* prescribed that the promoter shall be responsible for all obligations, responsibilities and functions under the provisions of the Act or the Rules and regulations made there under or to the allottees as per the agreement for sale executed *inter se*.



A. Unit and project related details

2. The particulars of unit details, sale consideration, the amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following tabular form:

Sr. No.	Particulars	Details
1.	Name of the project	M3M Golf Hills Phase 1, Sector-79 & 79B, Gurugram
2.	Project area	53.3833 acres
3.	DTCP license no. and validity status	19 of 2019 dated 11.02.2019 Valid upto 10.02.2024
4.	RERA Registered/ not registered	48 of 2023 dated 29.03.2023 valid upto 28.02.2031
5.	Unit no.	MGH1/01-2001, 20 th Floor, Tower-01 (page 100 of reply)
6.	Unit area	1067 sq.ft (carpet area) 192 sq.ft. (super area) (page 100 of reply)
7.	Date of Allotment letter	05.06.2023 (page 97 of reply)
8.	Date of execution of buyer's agreement	Not executed
9.	Possession clause as per application form	<i>"The promoter subject to force majeure circumstances (as defined under the agreement for sale), proposes to handover possession of the apartment on or before 30.09.2028 or such extended time as granted by the Competent Authority/HRERA per the Act/Rules.</i> (page 57 of reply)
10.	Due date of possession	30.09.2028 (As per possession clause)
11.	Total sale consideration	Rs.2,06,09,903/-

		(page 100 of reply)
12.	Amount paid by the complainant	Rs.20,00,000/- (page 14 of reply)
13.	Occupation certificate	Not obtained
14.	Offer of possession	Not offered
15.	Demand Notice	12.06.2023 (page 114 of reply)
16.	Pre-cancellation letter	10.07.2023 (page 119 of reply)
17.	Cancellation	02.08.2023, 07.11.2023 (page 124 & 127 of reply)

B. Facts of the complaint

3. The complainants have made the following submissions:
 - I. That the complainant booked a unit measuring 1902 sq.ft . in project of the respondent named M3M Golf Hills Phase 1, Sector 79 & 79B, Gurgaon for total sale consideration for a unit is Rs 2,06,09,903/- and has made total payment of Rs 20,00,000/- on 25.04.2023 for a unit as booking amount to the respondent.
 - II. That the respondent allotted a unit no. MGH1/01-2001 on 20th Floor in Tower 01 admeasuring 1902 sq.ft in the said project to the complainant. The complainant regularly followed up the respondent for execution of the builder buyer agreement, but the respondent evaded the matter on one pretext or other.
 - III. That the allotment letter was created on 05.06.2023 and was to sent to the complainant on 12.06.2023 via email.
 - IV. That on 05.07.2023, Collection Officer (Ravi Jha) of respondent reached out to the complainant and asked to complete the 10% deposit, even though it was completed 2 months back on 25.04.2023, demanding the completion of the said deposit indicating a lack of organization system of the respondent.



- V. That on 18.07.2023, bank loan from Axis Bank approved for the said unit and the sanction letter for the same was shared with respondent by the complainant, but unfortunately on 20.07.2023, it was informed by Axis bank to the complainant that they have stopped any kind of loan disbursement to respondent due to the involvement of directors of the respondent company in a money laundering case.
- VI. That surprisingly on 02.08.2023, complainant received an emailed for cancellation of a provisional unit from the respondent company. It is pertinent to mention here that complainant received the physical copy of builder buyer agreement on 16.08.2023 at his address from the respondent.
- VII. That the respondent's subsequent offers of an alternative unit at an increased price and new payment plan demonstrate opportunistic and exploitative behaviour, further exacerbating the complainant's distress and dissatisfaction with the entire buying process.
- VIII. That the initial transaction between the complainant and the respondent was founded upon the premise of a subvention plan, wherein the payment modality was purportedly structured to be conducive to the interests of both parties involved. However, after the initial agreement, the respondent unilaterally and, it is contended, without due consultation or consent from the complainant, modified the payment plan to a 10:90 arrangement. This amendment substantially elevated the financial risk borne by the complainant, particularly in the event of any default by the seller.
- IX. That in a regrettable sequence of events, it has come to light that the staff representatives of the respondent negligently misplaced critical documents, including the expression of interest (EOI) and the aforementioned 10% deposit, thereby causing a protracted delay in the



allocation process spanning a period of two months.

- X. That the termination of the agreement pertaining to the unit allocated to the complainant occurred prematurely, antecedent to the execution of the formal builder buyer agreement. Despite the purported grounds for cancellation being premised upon the non-execution of the BBA, it transpires that the physical copy of the said agreement was indeed dispatched to the complainant subsequent to the unilateral cancellation by the respondent. It is pertinent to note that the actions and omissions on the part of the builder fail to align with the stipulations delineated under the Real Estate (Regulation and Development) Act (RERA), thereby raising legal concerns regarding compliance with regulatory guidelines.
- XI. That it has been alleged by the respondent that the complainant failed to adhere to a payment demand letter; however, the veracity and communication of said demand remain contentious and unsubstantiated.
- XII. That due to this omission on the part of the respondent, the complainant has been suffering from disruption on his living arrangement, mental torture, and agony and also continues to incur severe financial losses. This could have been avoided if the respondent had executed BBA of the unit on time. Respondent has exploited the complainant by cancellation of the unit and not executing the BBA on time. The Respondent cannot escape the liability merely by sending cancellation letter.
- XIII. That on the ground of parity and equity the respondent also be subjected to pay the same rate of interest hence the respondent is liable to pay interest on the amount paid by the complainant from the



promise date of possession till the unit is actually delivered to the complainant.

- XIV. That the complainant has requested the respondent several times on making telephonic calls and also personally visiting the offices of the respondent to execute BBA as complainant have deposited booking amount, but respondent has flatly refused to do so. Thus, the respondent in a pre-planned manner defrauded the complainant with his hard-earned huge amount of money and wrongfully gains himself and caused wrongful loss to the complainant.

C. Relief sought by the complainants:

4. The complainants have sought following relief(s).
 - I. Direct the respondent to re-instate unit, execute the builder buyer agreement, pay delay possession charges and to execute conveyance deed for the said unit.
5. On the date of hearing, the authority explained to the respondent/promoter about the contraventions as alleged to have been committed in relation to section 11(4) (a) of the Act to plead guilty or not to plead guilty.

D. Reply by the respondents

6. The respondents have contested the complaint vide its reply dated 16.10.2024 on the following grounds: -
 - i. That after making independent enquiries and conducting market research and only after being fully satisfied about the project, the complainants approached the respondent through their broker M/s. Equator Realtors for booking of a residential unit in 'M3M Golf Hills Phase 1', containing residential apartments with suitable infrastructure facilities being developed under NILP Policy in a planned and phased manner over a period of time vide application form and paid a part booking amount towards the same. It is submitted



that the complainants on their own free will and understanding and after having read and understood all the terms of the application form, signed the application form. Thereafter, in due consideration of the part booking amount paid by the complainants and their commitment to make timely payments, the respondent company allotted the residential space bearing No. MGH1/01-2001 on 20th floor in favour of the complainants vide allotment letter dated 05.06.2023. It is submitted that the cost of the residential apartment admeasuring 1067 sq. ft. carpet area was Rs.2,06,09,903/- plus other applicable charges. It is submitted that the complainants had opted for construction linked payment plan on their own free will and volition. The respondent as per the payment plan opted by the complainants raised a demand vide demand letter dated 05.06.2023 for an amount of Rs.5,00,000/- which was payable on or before 05.06.2023. Thereafter vide demand letter dated 06.06.2023, the respondent raised the demand due to the tune of Rs.20,60,990/- which included the previous outstanding dues of Rs.5,00,000/- wherein Rs.15,60,990/- was payable on or before 15.06.2023 and Rs.5,00,000/- was payable immediately.

- ii. That the respondent vide cover letter dated 12.06.2023 dispatched the triplicate copies of the buyers agreement for due execution at the complainant's end. Thereafter, as per the opted payment plan, the respondent vide demand letter dated 12.06.2023 raised the demand due on commencement of excavation for an amount of Rs.55,82,970/- which included the previous outstanding dues to the tune of Rs.14,60,990/- wherein an amount of Rs.41,21,980/- was payable on or before 02.07.2023 and Rs.14,60,990/- was payable immediately. Thereafter the complainants vide email dated 13.06.2023 informed

the respondent that they are living in Australia. Accordingly, the respondent shared the soft copy of the buyer's agreement to the complainants vide email dated 16.06.2023. The respondent also vide another email dated 16.06.2023 had also shared the power of attorney format with the complainants so that the buyers agreement between the parties could be executed. However, for the reasons best known to the complainants, they failed to execute the buyer's agreement and did not come forward for the registration process.

- iii. Since the complainants failed to clear the dues raised vide demand letters and failed to execute the buyer's agreement, the respondent company issued a pre-cancellation letter dated 10.07.2023 reminding the complainants to remit the outstanding dues along with interest within a period of 7 days from the date of the letter.
- iv. That the complainants failed to execute the buyer's agreement therefore the respondent company sent a reminder vide email dated 24.07.2023 requesting the complainants to come forward and execute the buyer's agreement. In response to the said email, the complainants requested the respondent company to update their correspondence address and further to dispatch the copy of the buyer's agreement to their Australian address. The respondent accordingly updated the correspondence of the complainants and intimated the same to them vide email dated 24.07.2023. Thereafter the respondent vide email dated 27.07.2023 further requested the complainants to return the copy of the buyer's agreement which was dispatched to their old correspondence so that the same can be dispatched to their Australian address. Since, the complainants failed to do so, the respondent company again vide email dated 01.08.2023 requested the

complainants to submit the copy of the buyer's agreement, but to no avail.

- v. That the complainants even after the issuance of the pre-cancellation notice dated 10.07.2023 failed to adhere to the opportunity and continued to breach the terms of the application form/allotment by failing to clear the pending dues and failure to execute the buyer's agreement. The respondent left with no other alternative, cancelled the allotment of the complainants vide cancellation notice dated 02.08.2023 on account of non-execution of the buyer's agreement.
- vi. That post cancellation of the allotment, the complainants approached the respondent and requested to re-instate the allotment. The respondent being a customer-oriented company acceded to the said request subject to execution of the buyer's agreement and receipt of the outstanding dues by the complainants. Accordingly, the operation of the cancellation letter was halted by the respondent company. Thereafter, the respondent once again dispatched the triplicate copies of the buyer's agreement to their Australian address for due execution at the complainant's end, but to no avail.
- vii. That the respondent once again vide email dated 25.10.2023 requested the complainants to come forward and execute the buyer's agreement, but to no avail.
- viii. That the complainants despite the leverage given by the respondent company failed to take advantage of the opportunity by executing the buyer's agreement and clearing the outstanding dues, as a consequence of which the respondent company informed the complainants vide email dated 07.11.2023 that the cancellation letter dated 02.08.2023 stood in its operation and unit is cancelled. The



respondent yet again reiterated to the complainants that the unit is cancelled in records vide email dated 10.11.2023.

- ix. That the respondent vide email dated 16.11.2023 and 22.11.2023 again informed the complainants that the cancellation stood in operation and as a goodwill gesture it would process the refund of the amount soon. It is submitted that the complainants had paid an amount of Rs.20,00,000/- against the total sales consideration of Rs.2,06,09,903/- plus other charges. The respondent was constrained to cancel the unit on account of non-payment of the demands and non-execution of the buyer's agreement despite reminders and follow ups. It is submitted that the respondent is incurring various losses/damages on account of breach of the terms of the application form/allotment which the complainants are liable to pay as per the terms of the application form/allotment.
- x. That the respondent without prejudice to its rights, to close the matter and subject to the orders passed in the present case had refunded the entire amount deposited by the complainants i.e. Rs.20,00,000/- vide cheques bearing no. 001843 dated 17.04.2024 drawn on ICICI Bank for an amount of Rs.10,00,000/- in favour of complainant No.1 and cheque bearing no. 001844 dated 17.04.2024 drawn on ICICI Bank for an amount of Rs. 10,00,000/- in favour of complainant No.2 vide cover letter dated 23.04.2024 without any deductions, even though the respondent was entitled to forfeit the amount deposited being less than 10% of the sale consideration in accordance with clause 12 of the allotment letter. Thus, nothing survives in the present matter, the complaint is infructuous and is liable to be dismissed.

- xi. That in furtherance of the cancellation of the unit in question vide cancellation letter dated 02.08.2023, the same has been re-allotted to subsequent purchaser.
- xii. That the complainants by way of the present complaint is seeking the relief of delayed interest upto 20.03.2024. It is submitted that relief sought by the complainants is contrary to the mandate in Section 14 of the Specific Relief Act. The grant of this relief in the present matter cannot be sustained.
- xiii. That the complainants have failed to fulfil their contractual obligations stated in the terms of the application form/allotment and have filed the present complaint to take advantage of their own wrongs. Despite being well aware that timely payments is the essence of the transaction the complainants failed to make payments despite issuing reminders.
5. Copies of all the relevant documents have been filed and placed on the record. Their authenticity is not in dispute. Hence, the complaint can be decided on the basis of these undisputed documents and submissions made by the parties.

E. Jurisdiction of the authority

6. The Authority has complete territorial and subject matter jurisdiction to adjudicate the present complaint for the reasons given below.

E.I Territorial jurisdiction

7. As per notification no. 1/92/2017-1TCP dated 14.12.2017 issued by Town and Country Planning Department, Haryana the jurisdiction of Haryana Real Estate Regulatory Authority, Gurugram shall be entire Gurugram district for all purposes. In the present case, the project in question is situated within the planning area of Gurugram district.



Therefore, this Authority has complete territorial jurisdiction to deal with the present complaint.

E.II Subject-matter jurisdiction

8. Section 11(4)(a) of the Act, 2016 provides that the promoter shall be responsible to the allottees as per agreement for sale. Section 11(4)(a) is reproduced as hereunder:

Section 11.....

(4) The promoter shall-

(a) be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, or the common areas to the association of allottees or the competent authority, as the case may be;

Section 34-Functions of the Authority:

34(f) of the Act provides to ensure compliance of the obligations cast upon the promoters, the allottees and the real estate agents under this Act and the rules and regulations made thereunder.

9. So, in view of the provisions of the Act quoted above, the authority has complete jurisdiction to decide the complaint regarding non-compliance of obligations by the promoter.

F. Findings on the relief sought by the complainants.

G.I Direct the respondent to re-instate unit, execute the builder buyer agreement, pay delay possession charges and to execute conveyance deed for the said unit.

10. The complainants were allotted a unit bearing no. MGH1/01-2001 on 20th floor in the project named M3M Golf Hills Phase 1, Sector-79 & 79B, Gurugram vide provisional allotment letter dated 05.06.2023. The complainants have submitted that on 02.08.2023, they received an email for cancellation of a provisional unit from the respondent and thereafter on 16.08.2023, they received the physical copy of builder buyer agreement at their address from the respondent. The termination of the agreement pertaining to the unit allocated to the complainant



occurred prematurely, antecedent to the execution of the formal builder buyer agreement. Despite the purported grounds for cancellation being premised upon the non-execution of the BBA, it transpires that the physical copy of the said agreement was indeed dispatched to the complainant subsequent to the unilateral cancellation by the respondent. The respondent has submitted that vide cover letter dated 12.06.2023, it has dispatched the triplicate copies of the buyer's agreement for due execution at the complainant's end. Thereafter, as per the opted payment plan, the respondent vide demand letter dated 12.06.2023 raised the demand due on commencement of excavation for an amount of Rs.55,82,970/- which included the previous outstanding dues to the tune of Rs.14,60,990/- wherein an amount of Rs.41,21,980/- was payable on or before 02.07.2023 and Rs.14,60,990/- was payable immediately. Thereafter, the complainants vide email dated 13.06.2023 informed the respondent that they are living in Australia. Accordingly, the respondent shared the soft copy of the buyer's agreement to the complainants vide email dated 16.06.2023. However, for the reasons best known to the complainants, they failed to execute the buyer's agreement and did not come forward for the registration process. Since the complainants failed to clear the dues raised vide demand letters and failed to execute the buyer's agreement, the respondent issued a pre-cancellation letter dated 10.07.2023 reminding the complainants to remit the outstanding dues along with interest within a period of 7 days from the date of the letter. On 24.07.2023, the respondent sent a reminder through email requesting the complainants to come forward and execute the buyer's agreement. In response to the said email, the complainants requested the respondent company to update their correspondence address and further to dispatch the copy of the buyer's

agreement to their Australian address. The respondent accordingly updated the correspondence of the complainants and intimated the same to them vide email dated 24.07.2023. It is submitted that the complainants even after the issuance of the pre-cancellation notice dated 10.07.2023 failed to adhere to the opportunity and continued to breach the terms of the application form/allotment by failing to clear the pending dues and failure to execute the buyer's agreement. The respondent left with no other alternative, cancelled the allotment of the complainants vide cancellation notice dated 02.08.2023 on account of non-execution of the buyer's agreement. Post cancellation of the allotment, the complainants approached the respondent and requested to re-instate the allotment. The respondent acceded to the said request subject to execution of the buyer's agreement and receipt of the outstanding dues by the complainants. Accordingly, the operation of the cancellation letter was halted by the respondent. Thereafter, the respondent once again dispatched the triplicate copies of the buyer's agreement to their Australian address for due execution at the complainant's end, but to no avail. Despite the leverage given by the respondent, the complainants failed to take advantage of the opportunity by executing the buyer's agreement and clearing the outstanding dues, as a consequence of which the respondent company informed the complainants vide email dated 07.11.2023 that the unit is cancelled. Further, the respondent without prejudice to its rights, to close the matter and subject to the orders passed in the present case had refunded the entire amount deposited by the complainants i.e. Rs.20,00,000/- vide cheques bearing no. 001843 dated 17.04.2024 drawn on ICICI Bank for an amount of Rs.10,00,000/- in favour of complainant No.1 and cheque bearing no. 001844 dated 17.04.2024



drawn on ICICI Bank for an amount of Rs. 10,00,000/- in favour of complainant No.2 vide cover letter dated 23.04.2024 without any deductions, even though the respondent was entitled to forfeit the amount deposited being less than 10% of the sale consideration in accordance with clause 12 of the allotment letter. Now, the question before the Authority is whether the cancellation issued vide email dated 07.11.2023 is valid or not.

11. On consideration of documents available on record and submissions made by both the parties, it is determined that on the basis of provisions of allotment, the complainants have paid Rs.20,00,000/- against the total sale consideration of Rs.2,06,09,903/-. The said amount of Rs.20,00,000/- was paid by them at the time of booking and thereafter no amount was paid by them till cancellation of the unit. The complainants have submitted that subsequent to cancellation of the allotment, they have received the physical copy of the buyer's agreement at their address. However, the respondent has submitted that post cancellation of the allotment, the complainants approached the respondent and requested to re-instate the allotment. The respondent acceded to the said request subject to execution of the buyer's agreement and receipt of the outstanding dues by the complainants. Accordingly, the operation of the cancellation letter was halted by the respondent. Thereafter, the respondent once again dispatched the triplicate copies of the buyer's agreement to their Australian address for due execution at the complainant's end, but to no avail. Despite the leverage given by the respondent, the complainants failed to take advantage of the opportunity by executing the buyer's agreement and clearing the outstanding dues, as a consequence of which the respondent informed the complainants vide email dated

07.11.2023 that the unit is cancelled. It is further evident from the record that in terms of the payment plan agreed between the parties, the respondent has sent numerous reminders to the complainants to pay outstanding dues and to execute buyer's agreement. However, the complainants failed to make payment of the outstanding dues and to execute buyer's agreement. Therefore, the respondent was constrained to issue pre-cancellation letter dated 10.07.2023, giving last and final opportunity to the complainants to comply with their obligation to make payment of the amount due. However, despite repeated follow ups and communications and even after the issuance of the pre-cancellation letter, the complainants failed to act further and comply with their contractual obligations and therefore the allotment of the complainants was finally cancelled vide cancellation email dated 07.11.2023. Further, Section 19(6) of the Act of 2016 casts an obligation on the allottees to make necessary payments in a timely manner. Hence, cancellation of the unit in view of the terms and conditions of the payment plan annexed with the allotment letter dated 05.06.2023 is held to be valid. But while cancelling the unit, it was an obligation of the respondent to return the paid-up amount after deducting the amount of earnest money. The Hon'ble apex court of the land in cases of ***Maula Bux VS. Union of India, (1970) 1 SCR 928*** and ***Sirdar K.B. Ram Chandra Raj Urs. VS. Sarah C. Urs., (2015) 4 SCC 136***, has held that *forfeiture of the amount in case of breach of contract must be reasonable and if forfeiture is in the nature of penalty, then provisions of section 74 of Contract Act, 1872 are attached and the party so forfeiting must prove actual damages. After cancellation of allotment, the flat remains with the builder as such there is hardly any actual damage.* National Consumer Disputes Redressal Commissions in ***CC/435/2019 Ramesh Malhotra VS. Emaar MGF Land Limited***



(decided on 29.06.2020) and *Mr. Saurav Sanyal VS. M/s IREO Private Limited* (decided on 12.04.2022) and followed in *CC/2766/2017* in case titled as *Jayant Singhal and Anr. VS. M3M India Limited decided on 26.07.2022*, held that 10% of basic sale price is reasonable amount to be forfeited in the name of "earnest money". Keeping in view the principles laid down in the first two cases, a regulation known as the Haryana Real Estate Regulatory Authority Gurugram (Forfeiture of earnest money by the builder) Regulations, 11(5) of 2018, was framed providing as under:

"5. AMOUNT OF EARNEST MONEY

Scenario prior to the Real Estate (Regulations and Development) Act, 2016 was different. Frauds were carried out without any fear as there was no law for the same but now, in view of the above facts and taking into consideration the judgements of Hon'ble National Consumer Disputes Redressal Commission and the Hon'ble Supreme Court of India, the authority is of the view that the forfeiture amount of the earnest money shall not exceed more than 10% of the consideration amount of the real estate i.e. apartment /plot /building as the case may be in all cases where the cancellation of the flat/unit/plot is made by the builder in a unilateral manner or the buyer intends to withdraw from the project and any agreement containing any clause contrary to the aforesaid regulations shall be void and not binding on the buyer."

12. Thus, keeping in view the aforesaid legal provisions and the facts detailed above, the respondent is liable to refund the deposited amount of Rs.20,00,000/- after deducting 10% of the sale consideration i.e., Rs.2,06,09,903/- being earnest money along with an interest @10.85% (the State Bank of India highest marginal cost of lending rate (MCLR) applicable as on date +2%) as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 on the refundable amount, from the date of cancellation i.e., 07.11.2023 till actual refund of the amount within the timelines provided in Rule 16 of the Rules, 2017.



HARERA
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13. The Authority observes that in the instant case, the amount paid by the complainants i.e., Rs.20,00,000/- constitutes to only 9.70% of the sale consideration of Rs.2,06,09,000/-. Thus, no amount was liable to be refunded to the complainants. However, the respondent vide letter dated 23.04.2024, has agreed to refund the entire paid-up amount of Rs.20,00,000/- without any deductions. In view of the above, the respondent shall refund the amount paid by the complainants i.e., Rs.20,00,000/-, if not already done, within a period of 30 days in view of letter dated 23.04.2024. File be consigned to the registry.

(Ashok Sangwan)
Member

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 20.08.2025

HARERA
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