

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

Complaint no. : 5480 of 2024
Date of filing : 11.11.2024
Date of decision : 30.09.2025

Hermitage Condominium Association through
its president Sh. Brij Kishore.

Complainant
Versus

1. M/s Satya Developers Pvt. Ltd.
Regd. office: Plot no. 8, Sector 44, Gurugram,
Haryana
2. The Directorate of Town and Country Planning
Department, Chandigarh
Regd. office: plot no. 3, Sector 18A, Madhya
Marg, Chandigarh-160018.
3. The Dakshin Haryana Bijli Vitran Nigam
Limited
Regd. Office: Vidyut Sadan, Vidyut Nagar,
Hisar-125005

Respondents**CORAM:**

Shri Arun Kumar
Shri Ashok Sangwan

Chairman
Member

APPEARANCE:

Sh. Abhay Jain (Advocate)
Sh. Pooja Anangpal (Advocate)

Counsel for Complainant
Counsel for Respondent no. 1

ORDER

1. That the present complaint has been filed by the complainant/association of allottee under section 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as "the Act") read with rule 28 of the Haryana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred as "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 its obligations, responsibilities and functions to the allottee as per the agreement for sale executed inter se parties.

A. Project and unit related details

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

S. No.	Particulars	Details
1.	Name of the project	"The Hermitage" situated in Sector 103, Gurugram, Haryana
3	Nature of project	Residential Group Housing Project
4.	RERA registered	Not registered
5.	DTPC License no.	28 of 2011 dated 28.03.2011
	Validity status	27.03.2026
	Name of licensee	Satya Developers Pvt. Ltd.
6.	Occupation certificate details	12.08.2016, 13.06.2017, 12.03.2018.
7.	Imperia Esfera Residents Welfare Association Complainant herein (Through Brij Kishore)	Registered vide no. HR-018-2016-02706 dated 05.05.2016 under Haryana Registration and Regulation of Societies Act, 2012

A. Facts of the complaint

3. The complainant has made the following submissions in the complaint: -

- a. That the complainant association, Hermitage Condominium Association (hereinafter referred to as the Complainant Association) is a registered society having Registration No. HR-018-2016-02706 issued by the District Registrar, Firms and Societies, Gurugram on 5th September, 2016 under the Haryana Registration and Regulation of Societies Act, 2012.
- b. That in September, 2016, the association was initially formed by the Respondent Developer, Satya Developers Private Limited by appointing its own fake and bogus representatives as members of the governing body who were not buyers/allottees of the units in the residential group housing project, 'The Hermitage' to gain undue advantage from the inhabitants by charging hefty maintenance charges. The respondent no. 1 in connivance with its fake and bogus representatives had embezzled huge funds collected from the buyers of the project to fill its own pocket. The appointed members of the governing body were employees of the developer and were not members of the association. No Annual General Meeting (AGM) and Governing Body Meetings (GBM) were conducted by the illegal governing body at that time.
- c. That the residents of the project made various complaints to the District Registrar, Firms and Societies, Gurugram about the illegal governing body and the Direct Registrar took cognizance of the matter and passed an impugned order dated 12th December, 2018 stating that the President, Secretary and Treasurer are not the members of the association as per the record of the membership submitted by the management. It clearly proved that the management of the association was illegal and the intentions of the developer's appointed governing body was to remain in power to misappropriate the funds of the association for their personal gain. The

District Registrar also ordered that the illegal management could not hold the office of the Association and conduct day to day activities as per the rules and regulations of the Haryana Registration and Regulation of Societies Act, 2012 (HRRS Act, 2012) and the Principal of Natural Justice.

- d. That the said order of the District Registrar, Gurugram was appealed before the State Registrar of Societies, Haryana which was allowed. The State Registrar upheld the order of the District Registrar, Gurugram and ordered to form an Adhoc Committee to manage the affairs and conduct election as per valid members list. The Adhoc Committee as directed by the State Registrar of Societies, Haryana, took over the project in July, 2019 from the bogus governing body of the respondent no. 1 and managed the project till January, 2020. Thereafter, the Administrator was appointed by the District Registrar who managed the project till 10th February, 2022. In February, 2022, the Returning Officer (RO) was appointed and the legal and valid election of the association was conducted under the supervision of the Returning Officer (RO). The present governing body of the complainant association was appointed legally and lawfully for a term of three (3) years, which is duly registered with the District Registrar, Gurugram.
- e. That since the formation of the Association in 2016 till takeover of control by the Ad Hoc Committee in 2019, the Developer (respondent no. 1) had demanded and collected hefty amount on account of maintenance charges and IFMS from the allottees into the bank account of the association and collected 2 years advance sinking fund amount into its own bank account illegally and unlawfully. The respondent no. 1 in collusion with its own appointed bogus governing body, manipulated and embezzled huge funds collected from the allottees for its own benefit and advantage. The

respondent no. 1 is habitual of befooling and deceiving the allottees who have spent their hard-earned life time money to lead peaceful and soothing lives with their families in the project.

- f. That members of the complainant association have complained about their problems and deficiencies in services of the respondent no. 1 on numerous occasions, but the negligent attitude of the respondent no. 1 towards the requisitions made by the complainant association has damaged the project and caused stress, anxiety and mental agony to the allottees in the project. The respondent no. 1, even after repetitive requests from the members of the complainant association, have failed to resolve their grievances related to maintenance services, structural defects, electricity, water, sewage, road connectivity, refund of interest Free Maintenance Security (IFMS) and Sinking fund etc. till date. The grievances of the residents are briefly explained head wise in below mentioned paras of this complaint.
- g. That soon after the buyers/allottees shifted to their respective flats after the possession was offered to them, they started noticing structural defects and deficiencies in the project. There are several defects in the structure of the buildings only after few years of construction. The structure is in bad condition and requires repair, repaint, restructuring on immediate basis.
- h. That there are constant water leakage and seepage from the walls, roofs and floors in the basement which is weakening the structure, and posing difficulty and threat to the lives and properties of the allottees. Due to the pathetic condition of the basement, the allottees even face difficulty in reaching to their allotted parking place because of constant water on the ground. All electrical equipment of the project are installed in the basement and due to constant water leakage in the basement, there is always high



risk of electrocution. Even the lift pits remain filled with water. The respondent no. 1 has risked the lives of hundreds of allottees by not doing water proofing in the buildings of the project. The Complainant association repetitively complained to the respondent no. 1 about the miserable condition of the basement and requested to resolve the issue of water leakage in the basement but the respondent no. 1 made excuses on one pretext or the other. Another major issue of structural defect in the project is falling of plaster/paint from outer walls of the buildings. The condition of outer surface of the buildings is bad and poor. In many areas of the building, TMT rods are exposed and this has increased the risk of accident. The complainant association submitted various complaints to various authorities regarding the structural defects and deficiencies in the project.

- i. That a meeting was organised under the Chairmanship of the District Town Planner (DTP), Gurugram on 29th September, 2021 and the developer was directed to ensure the complete repair/maintenance of water seepage in basement within two (2) months, on the assurances given by the representative of the developer. But even after giving assurances before the District Town Planner (DTP), Gurugram, no concrete steps were taken by the developer to ensure the stoppage of leakage in the basement. However, large chunks of plaster from the walls of balconies of different flats and facade started falling, endangering the lives of the residents in the project.
- j. The Senior Town Planner (STP), Gurugram organised a meeting on 23rd January, 2023 which was attended by the representatives of the developer and the Residents Welfare Association (RWA), besides the STP officials. After the directions of the STP, Gurugram, the Developer issued a Work

Order for Structural Audit of basements of the project, 'The Hermitage' for a total sum of ₹7,00,000/- to a Structural Audit Company, NNC Design International at Delhi on 22nd February, 2023. But the developer never paid the work order amount to the Structural Audit Company and hence, no Structural Audit was conducted by the Structural Audit Company, NNC design international and no report was submitted.

- k. That on the complaint filed by the complainant association on 8th February, 2023 with the HARERA, Gurugram regarding heavy leakage and seepage in the basement of the Project 'The Hermitage', Shri J. S. Sindhu, Executive Engineer, HARERA, Gurugram was appointed as a Local Commissioner (LC) by the HARERA, Gurugram to investigate the matter. Shri J. S. Sindhu sent an email dated 17th March, 2023 and informed the respondent no. 1 and the complainant association to be present at site inspection of the project on 21st March, 2023. He also requested the respondent no. 1 to submit all information and details mentioned in the complaint during the site inspection. No report of site inspection is available with the complainant association.
- l. That recently on 5th July, 2024 vide Memo No. GGN-DTP(E)/2024/ 13320-13357, the District Town Planner (Enforcement), Gurugram directed the Developers of thirty-eight projects to attend the deficiency and observation noticed during the survey by giving priority to the critical issues of structural defects and deficiencies in the Project. Out of thirty-eight projects, the project of the developer/respondent no. 1, 'The Hermitage' falls at serial no. 6 in the list.
- m. That since the formation of the Association in 2016 till takeover of control by the Ad Hoc Committee in 2019, the respondent no. 1 had siphoned of

the funds collected as CAM charges from the allottees since the handover of possession, for its own benefit and advantage. The charges collected by the respondent no. 1 were not utilised for the welfare of the society as the respondent no. 1 collected higher CAM charges but provided low- and poor-quality maintenance services to the allottees in the project. The respondent no. 1 inflated the amounts of actual expenditure in order to embezzle more funds and also reflected huge amount of illegal and unlawful expenditure in the name of maintenance. Whereas in reality, no such maintenance work against the illegal and unlawful expenditure was done in the project.

- n. That the respondent no. 1 manipulated and embezzled huge amount of funds collected from the allottees on account of maintenance charges, Interest Free Maintenance Security and 2 years advance sinking fund. The respondent no. 1 collected maintenance charges and IFMS into the bank account of the association and collected 2 years advance sinking fund amount into its own bank account illegally and unlawfully.
- o. That the respondent no. 1 spent the money collected for IFMS illegally and unlawfully on expenses incurred for maintenance of the project. The respondent no. 1 has not provided any clarification on the illegal utilisation of the IFMS to the complainant association till date.
- p. That at the time of appointment of the Adhoc Committee, the respondent no. 1 did not hand over the books, accounts, records, documents, bills, invoices etc. to the Adhoc Committee. The developer's appointed governing body who was fake and bogus, disappeared without handing over the project to the Adhoc Committee. Due to these illegal actions of the respondent no. 1, the complainant association demands for forensic audit

- of the complete books and accounts of the respondent no. 1 from the date of receiving occupation certificates in 2016 till the Adhoc Committee took over the project in 2019.
- q. That the fake and bogus governing body which was appointed by the respondent no. 1 suddenly disappeared after the appointment of the Adhoc Committee in July, 2019. All documents, plans, maps, approvals, sanctions, records, invoices, registers, equipment, Annual Maintenance Charges (AMC), bills, and paraphernalia relating to the period from 2016 when the bogus governing body was appointed till 2019 when the project was taken over by the Adhoc Committee are still in possession of the bogus governing body or the respondent no. 1. nothing was provided or handed over either by the bogus governing body or by the respondent no. 1.
- r. That the Adhoc Committee managed the project till January, 2020. Thereafter, the Administrator was appointed by the District Registrar who managed the project till 10.02.2022. In February, 2022, the legal and valid election of the association was conducted under the supervision of the appointed Returning Officer (RO) and the present governing body of the complainant association was appointed legally and lawfully for a term of three (3) years. Till date, no proper handover of the paraphernalia which belong to the ownership of the association, is done to the present legal governing body by the developer's appointed bogus governing body or the developer/respondent no. 1.
- s. That the complainant association has the right of claim possession of the common areas of the project and seeks handover of all necessary, relevant and concerned documents, plans, maps, approvals, sanctions, records, invoices, registers, equipment, Annual Maintenance Charges (AMC), bills,

and paraphernalia of the period from 2016 when the bogus governing body was appointed till 2019 when the project was taken over by the Adhoc Committee, from the respondent no. 1.

- t. That the respondent no. 1 also misappropriated and embezzled huge amount of funds, which was taken in the name of Interest Free Maintenance Security (IFMS) and two (2) years advance Sinking Fund while giving possession to the allottees, which are to be utilised for welfare of the society. But, the members of the complainant association have reasons to believe that respondent no. 1 have misappropriated/manipulated the funds and utilised it for its own benefit and advantage. The respondent no. 1 collected the IFMS into the Association's bank account which was managed by its own appointed bogus representatives and collected 2 years advance sinking fund directly into its own bank account illegally and unlawfully. the complainant association has requested the respondent No. 1 many times to transfer the amounts collected for sinking fund into the bank account of the complainant association but no action was taken by the respondent no. 1 till date.
- u. That as per clause 7.1, page 15 of the buyers' agreement, it is mentioned that the every allottee of the project is liable to pay Interest Free Maintenance Security at the rate of ₹50/- per square feet of super area of their respective flats to the developer at the time of taking over the possession of their respective flats. Refer annexure-2 & 3, page 26 & 27 of the agreement appended as annexure-03 in the present complaint, wherein the respondent no. 1 had demanded IFMS of ₹1,32,000/- at the rate of ₹50/- per square feet for 2640 square feet of super area of the flat from Mr Brij Kishore, president of complainant association.

- v. The respondent no. 1 started handing over the possession in phased manner after obtaining occupation certificates (OCs) on 12-Aug-2016, 13-Jun-2017 and 12-Mar-2018. The total amount of IFMS of all 512 units in the project which is to be collected from every allottee at the rate of ₹50/- per square feet, is table below –

S. No.	Categories of Flats	Total no. of Flats	Total Super Area in square feet (a)	Rate of IFMS per square feet (b)	Total amount of IFMS (c=a*b)
1	1 BHK	40	22173	₹50	₹11,08,650
2	2 BHK	90	128414	₹50	₹64,20,700
3	3 BHK	224	439558	₹50	₹2,19,77,900
4	4 BHK	104	274367	₹50	₹1,37,18,350
5	Duplex	4	13263	₹50	₹6,63,150
6	Pent House	37	147423	₹50	₹73,71,150
7	Villa	13	101620	₹50	₹50,81,000
TOTAL		512	1126818		₹5,63,40,900

The total amount of IFMS amounts to ₹5,63,40,900/- of all 512 units in the project.

- w. That however till September, 2019, the developer/respondent no. 1 and its own appointed bogus governing body was handing and managing the association accounts and had collected IFMS amounting ₹3,28,35,950/- from 331 buyers/allottees at the time of handing possession of their flats. Out of the collected IFMS of ₹3,28,35,950/-, the respondent no. 1 made a fixed deposit of only ₹60,00,000/- and utilised the remaining IFMS amount (₹3,28,35,950 - ₹60,00,000 = ₹2,68,35,950/-) illegally and unlawfully for the purposes best known to him. No clarification or documentary proof was ever provided by the respondent no. 1 for the illegal utilisation of the IFMS by him. The respondent no. 1 had illegally and unlawfully utilised the IFMS deposit of the allottees for its own purposes and had not refunded the said utilised amount to the complainant association till date.

- x. Even today, on the sale of unsold flats to new buyers, the respondent no. 1 is collecting 2 years advance Sinking Fund from the new buyers into its own bank account illegally and unlawfully and not transferring the collected sinking fund into the bank account of the complainant association.
- y. The purpose of collecting IFMS charges by the developer/respondent No. 1 is to maintain and upkeep the project and the Sinking Fund/Contingency Fund/Maintenance Security is also a fund or deposit collected for maintenance of the Project. Thus, there is no difference between IFMS charges and sinking fund. The respondent no. 1 has already charged IFMS from the allottees and so, he is not liable to take charges under the head of Sinking Fund as the purpose of collecting both the amounts is same. It is not only unethical but also illegal on the part of respondent no. 1.
- z. That the respondent no. 1 handed over the possession to the allottees in phased manner after obtaining occupation certificates on 2016, 2017 & 2018 and thereby, some allottees started living in the project. Initially up to September, 2020, basic necessity like water was supplied to the allottees living in the project premises through water tankers.
- aa. That however, as per the Occupation Certifications, it is the responsibility of the respondent no. 1 to provide basic amenity like water to the residents of the project at government rate fixed by the concerned department in Haryana. but the respondent no. 1 had failed to provide water connection to the residents in the project and instead, incurred huge amount of ₹2,55,07,734/- for supplying water through water tankers in the premises, which is much higher than the government rate at which water is supplied by the department.

- bb. That since the occupancy in the project was minimum during 2017 to September, 2020 as the Respondent No. 1 handed over possession of flats in phased manner, the members of the complainant association have reasons to believe that the water was also used by the respondent no. 1 for completion of remaining construction activities in the project during that period.
- cc. That the respondent no. 1 had utilised the hard-earned money of the allottees of the project for its own personal gain and benefit. The respondent no. 1 had demanded and timely collected money from the allottees for all utility and maintenance services but had failed to provide proper utility connection and setups in the project for hassle free services. Instead of utilising the money of the allottees in maintaining and improving the project premises, the respondent no. 1 had completed the remaining construction works in the project at the cost of allottee's money. The complainant association seeks forensic audit of the book of accounts of the respondent no. 1 from the date of obtaining occupation certificates in 2016 till the date of takeover of control by the Adhoc Committee in 2019.
- dd. That in the development plan, the respondent no. 1 specified installation of four DG Sets of 500 KVA each (2000 KVA) for housing use and one DG Set of 40 KVA for commercial use, totalling 2040 KVA which is required for running emergency lights, pump and lifts etc. However, the respondent no. 1 installed only two DG Sets – one of 625 KVA and other of 500 KVA, in total 1125 KVA in the project for power backup in emergency situations, which is far less than the requisite capacity (2040 KVA). Thus, there is a deficiency of 915 KVA (2040 KVA - 1125 KVA) of power backup by DG Sets in the project due to failures of the respondent no. 1 to fulfil its obligations.

- ee. That the current occupancy in the project is almost full and uninterrupted power supply is a right of all residents. The deficiency of DG Sets (915 KVA) in the project has created a risk of complete electric power failure in case of breakdown of power lines and thus, essential services required on daily basis by the residents will be hampered. The respondent no. 1 had already charged and collected full amount for electricity connection and power backup by DG Sets of 2040 KVA from the allottees but despite collecting all charges, the respondent no. 1 has failed to fulfil its commitments and remove the deficiency of DG Sets (915 KVA) in the project.
- ff. That the members of the complainant association raised their concerns before the respondent no. 1 but to no avail. Instead of addressing the concerns of the complainant association, the respondent no. 1 refused to make up for the deficiency of DG sets in the project. The respondent no. 1 illegally and unlawfully collected money for 2040 KVA of DG Sets from the allottees as per its development plan but instead, the respondent no. 1 installed lower capacity DG sets (1125 KVA) in the project. The respondent no.1, shying away its obligations and responsibilities, had sold the flats in the project without making adequate provision for supply of electricity in the project.
- gg. That the respondent no. 1 is obligated to construct and develop 33KV switching station on the land of the project, the Hermitage at its own cost under the DHBVN licence conditions and electrification plan for power utilisation of 220/33 KV supply from the respondent no. 3, Dakshin Haryana Bijli Vitran Nigam (DHBVN). But since no measure was taken by the developer/respondent no. 1 to develop 33 KV switching station to cater the electric load requirement, the respondent No. 3, Dakshin Haryana Bijli

Vitran Nigam (DHBVN) had to allow partial load of 11 KV level from existing network of substations to the respondent no. 1 as a time gap arrangement with the condition that the respondent no. 1 will develop 33 KV switching station as per the sanctioned plan in a time bound manner. Consequently, due to no further actions by the respondent no. 1, the 11 KV substations in the area of the project became overloaded and on the other hand, the 33 KV substations constructed to cater the ultimate load requirement of the said project is lying ideal for long time.

- hh. That the respondent no. 3 sent various notices, letters and reminders to the respondent no. 1 to either transfer spare land of 500 square yards in the project to the respondent no. 3 for creation of 33 KV switching station or deposit bank guarantee equivalent to 1.5 times of market value of 500 square yards of land. The respondent No. 1 neither constructed 33 KV switching station itself, nor transferred 500 square yard of land to the respondent no. 3 and nor deposited bank guarantee with the respondent no. 3. The respondent no. 3 requested the respondent no. 1 via various letters to deposit bank guarantee amounting ₹3,25,60,285/- with the respondent no. 3 for developing 33 KV switching station, but the respondent no. 1 only submitted partial bank guarantee of ₹2,64,86,951/- with the respondent no. 3.
- ii. That the respondent no. 1 had collected money from the allottees for laying and developing 33 KV switching station in the project but has failed to construct 33 KV switching station till date. This has constituted breach of trust and faith with the allottees. The members of the complainant association have also made various requests to the respondent no. 1 to develop 33 KV switching station in the project at the earliest so that the

allottees can utilize the requisite power to their ultimate satisfaction. The respondent no. 1, despite withholding the hard-earned money of the allottees, is not responding to the requisitions of the complainant association.

- jj. That while selling the flats of the said project, the respondent no. 1 showed the site plan to the buyers wherein a 30 meters (98.4 feet) wide road was to be developed for the entry and exit from the residential project. However, as on today, no such 30 meters (98.4 feet) wide road exists as shown in the site map. Presently, the residents are using a revenue road of 11 feet for their entry and exit from the project. The residents are facing problems in commuting on daily basis due to no proper road connectivity.
- kk. That the respondent no. 1 and respondent no. 2 had failed to acquire and develop the said land into a wide main road for the use of the residents for their entry and exit from the project. Moreover, the respondent no. 1 took on lease 1.5 meters (5 feet) wide land from a local farmer parallel to the revenue road to get the Occupation Certificate by flouting OC conditions. Thereafter, the residents also started using the leased road for commuting in and out of the project. However, after obtaining Occupation Certificates, the respondent no. 1 started making defaults in paying rent to the local farmer. Due to this, the farmer blocked the access to his 1.5 meters (5 feet) road and stopped the residents from using it for entry and exit from the project.
- ll. That the allottees felt cheated and betrayed by the respondent no. 1 as they are not delivered the proper road connectivity as promised at the time of booking their residential units in the project and shown in the site map.

The allottees are deprived of basic and necessary amenities even after paying complete payable amount to the respondent no. 1.

- mm. That the complainant association has approached the respondents on various occasions with their grievances but to no avail. The respondents are non-responsive to the submissions made by the members of the association, hence leaving the members high and dry at their own fate. The allottees in the project have suffered an irreparable financial loss which cannot be calculated in terms of money. The respondent no. 1 is expert and specialist in manipulating the circumstances and is in the habit of making false and wrong promises and commitments towards the project for the benefit of its own interest. The respondent no. 1 made tall claims about providing world class maintenance services in the project, but in reality, did nothing but fetched more and more money from the aggrieved allottees. Moreover, the complainant association wrote various representations before various competent authorities about the illegal activities, lapses and failures of the respondents but no concrete actions were taken by the authorities till date.
- nn. That the respondent no. 1 in an unfair manner siphoned off funds meant for project and did not do the needful, and rather utilised the collected amounts for its own personal benefit for no cost. The respondent no. 1 being the builder/promoter/seller/ developer, has to pay heavy interest per annum whenever it seeks funds from banks or investors. However, in the present scenario, the respondent no. 1 utilised funds collected from the allottees for its own good.
- oo. That the respondent no. 1 has cheated the members of the complainant association knowingly and has taken monies by deception, made

fraudulent representations and deliberate false written promises. The fraudulent behaviour of the respondent no. 1 also attracts criminal liability under the Indian Criminal Dispensation System. The conducts of the respondent no. 1 are suspect, wilfully unfair and arbitrary, deficient in every manner and scandalous. The members of the complainant association have lost faith, confidence and trust in the respondent no. 1 as the respondent no. 1 is continuously deceptive and non-responsive to the requisitions made by the complainant.

B. Relief sought by the complainant: -

The complainant has sought following relief(s):

- I. Direct the Respondent No. 1 to restructure/repaint/repair the breakage, leakage, seepage, plaster, paint, wear and tear of the external and internal areas of the buildings, towers, basement of the premises immediately.
- II. Direct the respondent no. 1 to get the structural audit of the premises of the project, the hermitage from a competent professional and provide the copy of the report of structural audit to the complainant association.
- III. Direct the respondent no. 1 to conduct forensic audit of the account for the amount collected from all the allottees on account of Interest Free Maintenance Security (IFMS) and expenses incurred out of the collected IFMS by the respondent no. 1, till the takeover of Project by the Adhoc Committee in 2019 after direction from the State Registrar of Societies, Haryana.
- IV. Take necessary and appropriate legal action as per the law of the land against the Respondent No. 1 for manipulating and embezzling huge funds collected from the allottees on account of Interest Free Maintenance Security (IFMS).
- V. Direct the respondent no. 1 not to collect sinking fund from the buyers of the project.
- VI. Direct the respondent no. 1 to transfer all collected sinking fund taken from all the allottees of the project to the complainant Association immediately.

- VII. Direct the respondent No. 1 to install DG Set of committed capacity in the project, as specified and promised to the members of the complainant association in the Buyers Agreement.
 - VIII. Direct the respondent no. 1 & 2 to construct and develop the 30 meters (98.4 feet) wide main road for entry and exit from the residential project, as per the site plan of the project shown to the allottees at the time of booking of residential flats in the project.
 - IX. Direct the respondent no. 1 to continue paying rent of the 1.5 meters (5 feet) wide road taken on lease by the respondent no. 1 from local farmer, for entry and exit of the residents from the Project till the 30 meters (98.4 feet) wide main road is constructed and developed by the respondent no. 1 & 2.
 - X. Direct the respondent no. 1 to provide details of all the expenses incurred and money received towards Common Area Maintenance (CAM) charges from all the allottees in the said project from the date of receiving occupation certificates, till the takeover of Project by the Adhoc Committee in 2019 after direction from the State Registrar of Societies, Haryana.
 - XI. Direct the respondent no. 1 to conduct a Forensic Audit of the account of Common Area Maintenance (CAM) charges with regard to all the expenditure incurred on maintenance of the common area in the Project and all the money received from the allottees till date.
 - XII. Direct the respondent no. 1 to handover all necessary, relevant and concerned documents, plans, maps, approvals, sanctions, records, invoices, registers, equipments, Annual Maintenance Charges (AMC), bills, and paraphernalia of the project to the complainant Association.
 - XIII. Direct the respondent no. 1 to execute the registered conveyance deed of the undivided proportionate title in the common areas of the project in favour of the complainant-association.
 - XIV. Direct the respondents to pay legal expenses of Rs.5,00,000/- (Rupees Five lakhs) incurred by the complainant association for filing and pursuing the present case.
4. 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.

C. Reply by the respondent no. 1

5. The respondent is contesting the complaint on the following grounds:-

- a. That the present complaint is not maintainable in the eyes of law and is liable to be dismissed on the threshold being time barred as the RERA Act clearly prescribes a time limit of 5 years for the matters pertaining to structural defects, Whereas the present matter is hopelessly time barred in view of Section 14(3) of the RERA Act.
- b. That even otherwise, the complainant has no locus-standi or cause of action to file the complaint. The complaint is based on an erroneous interpretation of the provisions of the Act as well as an incorrect understanding of the terms and conditions of the buyer's agreement with the residents/individual, as shall be evident from the submissions made in the following paragraphs of the present reply.
- c. That complex has been handed over to the complainant association years back and at the time of hand over there were no such issues or snags in the complex and since the date of handover, it is the complainant who is managing and administering the complex for years now, as such all the issues which the complainant has highlighted are due to the maintenance failure on the part of the complainant.
- d. That the complex was neglected by the complainant itself as the answering respondents have always made best efforts to co-operate with the complainant bodies solely as good will gesture and only keeping in view that it was actually the complex and its residents which were suffering and just to recall the complainant i.e. the current governing body that they personally were also fighting against some handful residents who were trying to conduct elections of the complainant without majority

participation, highlighting all these issues and it was answering respondents only which has come upfront for its customers/ residents to fight on the issue that all registered owners should be allowed to participate in the elections of the association before the District Registrar Firms & Societies, Gurugram and its further authorities, so that lawful association should come in place to look after the complex at its best, it is also pertinent to mention that in the said entire process it was the welfare of the owners which was fought for and the company was nowhere involved for its own benefits the only interest for such long legal fights was only and only the residents/owners interest, welfare and good upkeep of the complex.

- e. That the complainant association was handed over maintenance and operations of the complex way back in the year 2016 but since there was no lawful election of the complainant an Ad-Hoc committee with vested interests headed by Mr. Sandeep Arora came in to place who were only targeting to be in the board any which way and at that time not even the present governing body members were made voters and only handful people were made voters by said Ad-Hoc committee to make sure that they only come as the elected governing body, as the Ad-Hoc committee was subsequently replaced by an administrator but still not only the administrator but also Col. P.S Gulia i.e. the estate manager were working under and on the instructions of Mr. Sandeep Arora for the reasons best known to them, the answering respondents have proofs wherein the privileged communications between the respondent and the administrator and Col. P.S Gulia were singularly being copied to Mr. Sandeep Arora and his counsel and at that time also it was the answering respondent which has

taken the cause of the complainant keeping in view the larger interest of all the owners.

- f. That the construction of the complex has been done strictly in accordance with the prevailing rules and regulations. The project has been planned efficiently by well-known and experienced civil engineers and architects. The building plans and other such plans have been approved after due scrutiny and the entire project has been executed with planning, patience and honesty. The rain water is not coming inside the basement by-design. The maintenance agency has not fully been able to manage the water resources inside the complex due to which such flooding may have arisen and also failure in execution of the master plan is also one of the reasons. The construction has been done to minimise the stagnation of water at any one place. We strongly recommend that the maintenance agency realise its utility and find the actual cause for such flooding of water, even in addition to the same it is submitted that the water level in the area where the complex is situated has gone high and most of the complexes in the area are facing such problems for which the government authorities have to initiate action. The construction of the complex has been done strictly in accordance with the prevailing rules and regulations. The project has been planned efficiently by well-known and experienced civil engineers and architects. The building plans and other such plans have been approved after due scrutiny and the entire project has been executed with planning, patience and honesty. The rain water is not coming inside the basement by-design. The maintenance agency has not fully been able to manage the water resources inside the complex due to which such flooding may have arisen and also failure in execution of the master plan is also one of the reasons.

The construction has been done to minimise the stagnation of water at any one place. We strongly recommend that the maintenance agency realise its utility and find the actual cause for such flooding of water, even in addition to the same it is submitted that the water level in the area where the complex is situated has gone high and most of the complexes in the area are facing such problems for which the government authorities have to initiate action.

- g. That the relief sought in the complaint by the complainant is based on false and frivolous grounds and they are not entitled to any discretionary relief from the Authority as the complainant not coming with clean hands may be thrown out without going into the merits of the case. The complaint is not maintainable or tenable under the eyes of law as the complainant have not approached to the Authority with clean hands and has not disclosed the true and material facts relates to this case of complaint.
- h. That the complainant thus have approached the Authority with unclean hands and has suppressed and concealed the material facts and proceedings which have direct bearing on the very maintainability of purported complaint and if there had been discloser of these material facts and proceedings the question of entertaining the present complaint would have not arising in view of the case law titled as S.P. Chengalvaraya Naidu Vs. Jagan Nath reported in 1994 (1) SCC Page 1 in which the Hon'ble Apex Court of the land opined that non-discloser of material facts and documents amounts to a fraud on not only the opposite party, but also upon the Authority and subsequently the same view was taken by even Hon'ble National Commission in case titled as Tata Motors Vs. Baba Huzoor Maharaj bearing RP No.2562 of 2012 decided on 25.09.2013.



- i. That without prejudice to the aforesaid and the rights of the respondents, it is submitted that the falsity of claims of the complainants can also be made from the fact that IFMS i.e. the Interest Free Maintenance Security (IFMS) Deposit was directly paid/transferred by the respective allottee in the account of the Hermitage Condominium Association, and that the respondents had not received the same, or any part thereof, from any of the allottee and only a few owners have made the payments in favour of the answering respondent which were duly transferred to the complainant. It was never agreed in the terms of the buyers agreement that the sinking fund is refundable and as far as water supply charges as alleged are concerned the answering respondents have never charged any of its allottees against water supply charges as alleged, therefore, all the payments made by the residents under the head of IFMS are retained with the complainant association which clearly proves the falsity and malafide intentions of the complainant. However, it is pertinent to mention here that there is no deficiency in infrastructure or structural defects as alleged by the complainant in this complaint.
- j. That the maintenance of the complex including property management services, engineering services, housekeeping services, horticulture and security services have peacefully/physically handed over/transferred to the complainant association entirely under the provisions of The Haryana Apartment Ownership Act, 1983; without any demur and any protest of whatsoever in nature. The complainant association is collecting money and is generating funds by way of maintenance charges from the residents/owners/occupiers to maintain the complex on per sq. ft. basis per months along with sinking funds etc.

- k. That since the maintenance is being taken care of and collected by complainant association, therefore, the HCA is liable responsible and under a contractual obligation with the residents/owners/occupiers to take care of day-to-day expenses and compliance on its own expense. The owners of the apartments are bound by terms of clause no. 2.2(ii) and clause no. 2.4 (ii) of buyers' agreement.
- l. That the present complaint is not maintainable before the Authority. The complainant has filed the present complaint seeking certain baseless reliefs in the complaint. The alleged relief seeking by the complainant is false, frivolous, baseless and fictitious, and the complainant is not entitled for the relief mentioned in present complaint under reply. The present complaint is liable to be dismissed on this ground alone.
- m. That the respondent has incurred expenses for an amount of Rs. 4.41 Crores towards the upgradation of electricity load from 11KVA to 33KVA at the Hermitage complex, which has still not been recovered from the complainant association till date.
- n. That with regard to the claim of IFMS that the Interest Free Maintenance Security deposit was directly paid/transferred by the respective allottee in the account of the Hermitage Condominium Association, and that the respondents had not received the same, or any part thereof, from any of the allottee, as far as sinking fund as alleged is concerned it was never agreed in the terms of the buyer's agreement that the said amount is refundable and it is also submitted that the answering respondents have never charged the allottees any amount as water supply charges. As regards the sinking fund it is submitted that the as per the terms of the BBA and maintenance agreement, which regulate the relationship between the developer and its

buyers, no agreement has been arrived at for refund of the sinking fund. As per the clause 4.12 of the maintenance agreement, the sinking fund is directly payable by the allottee to the HCA and/or the maintenance agency as per the rates defined therein, i.e., @Rs. 5/- per sq. ft. for initial 2 years and thereafter @Rs. 0.15/- per Sq. Ft. per month in advance of each month. Further, the developer will have no objection if the HCA deems it fit to increase or decrease the said rates as per its own requirements overseeing the maintenance and operations of the complex.

- o. That upon elections of the present governing body of the complainants it was the respondent who has sent the complainants an Invitation for tea with a view to maintain co-ordial relations between the company and the association for the best interest of the customers/home buyers of the respondent.
- p. That the complainant was very happy with the said initiative of the company and have joined the answering respondent for tea and have put forth certain points, but it is worth mentioning that none of the points made in the present complaint were made during the said meeting, the complainant was duly explained in the said meeting that after the handover by the respondent the respondent it is not the responsibility of the respondent to maintain and look after the upkeep of the complex or to counter the day to day issues and after duly understanding the same complainant itself has sent minutes of the said meeting dated 14.02.2022 which were little deviated and the amended minutes were then sent by the answering respondent which were never objected to by the complainant.
- q. That the complainant has not raised the points as mentioned in the complaint during their first meeting with the respondent had there been

any truth in the same then they would have raised these issues when both the parties have sat amicably on a friendly note, but same was not done as the complainants have no such cause of action in their favour as the answering respondent has never denied any of the legal responsibilities to be fulfilled as a developer and in fact the respondent has gone a step ahead to even help the complainant in certain works purely on a good will gesture without having any legal responsibility for the same.

- r. That the complaint under reply is nothing else then an attempt to blackmail and hand twist the respondent to fell prey to the unjustified demands of the complainant, whereas it is submitted that this complaint basis its falsity is not only a misuse of the process of law but is also an attempt by the complainant to misuse the Authority by making misleading and false submissions which amounts to committing fraud as has been held in the judgements supra. It is also not out of context to be mentioned here that even power back or DG as alleged has also not been denied and has actually been provided by the answering respondents as agreed in terms of the buyer's agreement.

D. Reply by the respondent no. 2 & 3

6. No reply has been submitted to the complaint by the respondent no. 2 i.e., DTCP, Haryana. Further, a reply has been submitted by the DHBVN stating that the complainant has no locus standi to file the present complaint against it.
7. The Authority observes that in terms of Section 31 of the Act 2016, complaints can be filed against any promoter, allottee or real estate agent. The above respondents do not fall under any of the categories and therefore the complaint is not maintainable against respondent no.1 & 2. Moreover, both respondent no.1 & 2 are governed by respective legislations an enacted to carry out specific

mandates. In case the complainant-association has any grievance qua the obligations of the said authorities, they are at liberty to approach the said authorities or invoke the relevant provisions of the respective legislations/enactments governing them.

E. Findings on the relief sought by the complainant/association

E.I Direct the respondent no. 1 to restructure/repaint/repair the breakage, leakage, seepage, plaster, paint, wear and tear of the external and internal areas of the buildings, towers, basement of the premises immediately.

E.II Direct the respondent no.1 to get the structural audit of the premises of the project, the Hermitage from a competent professional and provide the copy of the report of structural audit to the complainant association.

8. The above-mentioned reliefs sought by the complainant by the complainant-association are being taken together.
9. The Authority observes that the OC for the project has been granted on 12.08.2016, 13.06.2017, 12.03.2018 from the competent authority and the complainant-association has filed the complaint on 11.11.2024, which is after the completing five years. Under Section 14(3) of the Act, 2016, it is the obligation of the promoter to rectify any structural defects or defects in workmanship, quality, or provision of services that are brought to their notice by the allottee within five years from the date of possession. In the present matter, the provisions of Section 14(3) are not attracted as the last Occupation Certificate for the project was issued more than 5 years ago.

E.III.Direct the respondent no 1 & 2 to construct and develop the 30 meters wide main road for entry and exit from the residential project, as per the site plan of the project shown to the allottees at the time of booking of residential flats in the project.

E.IV Direct the respondent no1 to continue paying rent of the 1.5 meters wide road taken on lease by the respondent no.1 from local farmer, for entry and exit of the residents from the project till the 30 meters wide main road is constructed and developed by the respondent no.1 & 2.

10. The competent authority for grant of license, approval of sectoral plans, layout plans, building plans and grant of OC with regard to the said project is the Director Town and Country Planning, (DTCP) Haryana, under statutory provisions laid down in relevant legislations. Therefore, in case the complainant-association have any grievances in this regard, they may approach the DTCP for redressal of the same.
- E.V Direct the respondent no.1 to provide details of all the expenses incurred and money received towards common area maintenance charges from all the allottees in the said project from the date of receiving occupation certificates, till the takeover of project by the Adhoc Committee in 2018 after direction from the State Registrar of Societies, Haryana.
- E.VI Direct the respondent no.1 to conduct a forensic audit of the account of CAM charges with regard to all the expenditure incurred on maintenance of the common area in the project and all the money received from the allottees till date.
11. The above-mentioned reliefs sought by the complainant by the complainant-association are being taken together.
12. The complainant association has submitted that the respondent no.1 had siphoned of the funds collected as CAM charges from the allottee and the charges collected as CAM charges from the allottees were not utilized for the welfare of the society. The respondent has denied all the allegations levied upon it.
13. The promoter is duty bound to provide the details to the complainant/association in furtherance to his obligation under **Section 11(4)(d)** of the Act, 2016. The amount charged under the above head from the allottees of the project shall be as per the terms and conditions agreed in the builder buyer agreement being in conformity with the provisions with the law and if any allottee has any grievance against the amount so collected, he/she may seek such details from the respondents and the respondent no.1 is bound to provide the same to the aggrieved upon the request so made by the allottee.

- E.VII Direct the Respondent No. 1 to conduct Forensic Audit of the Account for the amount collected from all the allottees on account of Interest Free Maintenance Security (IFMS) and expenses incurred out of the collected IFMS by the Respondent No. 1, till the takeover of Project by the Adhoc Committee in 2019 after direction from the State Registrar of Societies, Haryana**
- E.VIII Take necessary and appropriate legal action as per the law of the land against the Respondent No. 1 for manipulating and embezzling huge funds collected from the allottees on account of Interest Free Maintenance Security (IFMS).**
- E.IX Direct the respondent no.1 not to collect sinking fund from the buyers of the project.**
- E.X Direct the Respondent No. 1 to transfer all collected Sinking Fund taken from all the allottees of the Project to the Complainant Association immediately.**
14. The above-mentioned reliefs sought by the complainant by the complainant-association are being taken together.
15. The complainant association has submitted that the respondent no.1 misappropriated and embezzled huge amount of fund, which was taken by the developer in the name of Interest Free maintenance Security while giving possession to the allottee, and sinking fund to be utilized for welfare of the society. But, the members of the complainant association believed that respondent no.1 has misappropriated the funds and not utilized towards welfare of the allottees. Therefore, the complainant association has requested the respondent no.1 to transfer the IFMS and sinking fund to the association. In its reply, the respondent no.1 has submitted that IFMS was directly paid by the respective allottee in the account of the Hermitage Condominium Association, and the respondent had not received the same, or any part thereof, from any of the allottee, as far as sinking fund as alleged is concerned it was never agreed in the terms of the buyer's agreement that the said amount is refundable.
16. The Act, 2016 mandates under Section 11(4)(d), that developers would be responsible for providing and maintaining the essential services, on reasonable

charges, till the time the same is taken over by the association of the allottees. Further, Section 11(4)(g), provides that the developer will be responsible to pay all outgoing until it transfers the physical possession of the real estate project to the allottees or the association of allottees, as the case may be, which it has collected from the allottees, for the payment of outgoing including land cost, ground rent, municipal or other local taxes, charges for water or electricity, maintenance charges, including mortgage loan and interest on mortgages or other encumbrances and such other liabilities payable to competent authority banks and financial institutions which are related to the project. It further provides that where any promoter fails to pay all or any of the outgoing collected by it from the allottees or any liability, mortgage loan and interest thereon before transferring the real estate project to such allottees, or the association of the allottees, as the case may be, the promoter shall continue to be liable, even after the transfer of the property, to pay such outgoing and penal charges, if any, to the Authority or person to whom they are payable and be liable for the cost of any legal proceedings which may be taken therefore by such authority or person.

17. Section 17(2) of the Act, 2016 says that after obtaining OC and handing over physical possession to the allottee in terms of sub section (1), it shall be the responsibility of the promoter to handover the necessary documents, plans, including common areas, to association of the allottees or the competent authority, as the case may be, as per the local laws. The clause is reproduced below for reference:

"17. Transfer of title.-

(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of

the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

(2) After obtaining the occupation certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, as per the local laws;

Provided that, in the absence of any local law, the promoter shall handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, within thirty days after obtaining the completion certificate.

18. Further, STP, Gurugram vide memo no. 421-456 dated 21.02.2013, directed all the colonizers, to handover and transfer the administration of the project to the resident welfare associations after receipt of OC and execution and registration of deed of declaration under Section 2 of the Haryana Apartment Ownership Act, 1983. Section 2 of the Haryana Apartment Ownership Act, 1983 provides for execution and registration of declaration within a period of ninety days after obtaining Occupation Certificate/part Occupation Certificate. After execution and registration of Deed of Declaration, the administration of that part of the condominium for which Occupation Certificate has been granted is to be transferred to the Board of Managers of the association. Not only this, by virtue of these provisions, the respondent/promoter's *ipso facto* becomes liable to transfer the amount which it has collected from the allottees on account of IFMS along with the interest accrued thereon the association. The promoter cannot treat this money as his own or be free to utilize it for any purpose he considers appropriate. However, if any money out of this is spent on the project, an account

thereof along with justification has to be provided to the association of allottees. The Authority considers that the IFMS and sinking funds collected by the developer from the allottees of the project is not a part of the sale consideration of the apartment/plot. This amount is charged in addition to the consideration of the unit for further contingencies of the project which is meant to be handed over to the association whenever a lawful association is created, and the project is handed over to them. However, it has been observed that even after execution and registration of the deed of declaration, the administration is still being run by the promoters themselves or their agency which is totally against the spirit of the Apartment Ownership Act, 1983. Thus, the respondent/promoters are directed to transfer the unutilized IFMS to the association with a period of thirty days from the date of this order. In so far as, the amount that has been spent by the promoter from the IFMS and sinking funds so collected from the allottees is concerned, the promoter shall give the justification with respect to such expenditure incurred and if any such expenditure is found to be in conflict with the permissible deductions as per law, the same shall also be transferred to the association. It is further clarified that the amount so collected under the head of IFMS is concerned, no amount can be spent by the promoter for the expenditure it is liable to incur to discharge its liability under Section 14 of the Act.

19. In view of the above, the respondent promoter is obligated to handover the amount of IFMS and sinking funds collected by it with all the details regarding to handover the amount of IFMS and sinking funds collected by it with all the details regarding the IFMS amount and the interest accrued thereon if any to the complainant association.

E.XI Direct the Respondent No. 1 to install DG Set of committed capacity in the Project, as specified and promised to the members of the Complainant Association in the Buyers Agreement

20. Section 14 of the Act of 2016 mandates the promoter to develop and complete the proposed project in accordance with the sanctioned plans, layout plans and specification as approved by the competent authority. Thus, the respondent/promoter is directed to provide all the requisite facilities as per plan approved by DTCP, Haryana and promoter to be provided as per BBA.

E.XII Direct the Respondent No. 1 to handover all necessary, relevant and concerned documents, plans, maps, approvals, sanctions, records, invoices, registers, equipment, Annual Maintenance Charges (AMC), bills, and paraphernalias of the Project to the Complainant Association.

21. The promoter is duty bound to provide the details to the complainant/association in furtherance to his obligation under **Section 11(3)(a)** of the Act, 2016. The amount charged in the above head from the allottees of the project shall be as per the terms and conditions agreed in the builder buyer agreement being in conformity with the provisions with the law and if any allottee has any grievance against the amount so collected, he/she may seek such details from the respondents and the respondents are bound to provide the same to the aggrieved upon the request so made by the allottee.

E.XIII Direct the respondent no. 1 to execute the registered conveyance deed of the undivided proportionate title in the common areas of the project in favour of the complainant association

22. **Section 17(1)** of the Act, 2016 lays down that after obtaining OC and handing over physical possession to the association of the allottees in terms of sub section (1), it shall be the responsibility of the promoter to handover the necessary documents, plans, including common areas, to association of the allottees or the competent authority, as the case may be, as per the local laws. The clause is reproduced below for reference:

"17. Transfer of title.-

(1). The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of

the plot, apartment or building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws;

Provided that, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried out by the promoter within three months from date of issue of occupancy certificate."

(2) After obtaining the occupation certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, as per the local laws;

Provided that, in the absence of any local law, the promoter shall handover the necessary documents and plans, including common areas, to the association of the allottees or the competent authority, as the case may be, within thirty days after obtaining the completion certificate.

23. The Authority observes that OC in respect of the project has already been obtained by the respondent promoter. Hence, there is no reason to delay the execution of conveyance deed of the common areas. In view of above, the respondent shall execute the conveyance deed within 30 days upon receipt of the payment of requisite stamp duty by the complainant association as per norms of the state government.

E. XIV Direct the respondents to pay legal expenses of Rs.5,00,000/- incurred by the complainant association for filing and pursuing the case.

24. The complainant is also seeking relief w.r.t. litigation expenses & compensation. Hon'ble Supreme Court of India in civil appeal nos. 6745-6749 of 2021 titled as ***M/s Newtech Promoters and Developers Pvt. Ltd. V/s State of Up & Ors. (supra)***, has held that an allottee is entitled to claim compensation & litigation charges under sections 12,14,18 and section 19 which is to be decided by the adjudicating officer as per section 71 and the quantum of compensation & litigation expense shall be adjudged by the adjudicating officer having due

regard to the factors mentioned in section 72. The adjudicating officer has exclusive jurisdiction to deal with the complaints in respect of compensation & legal expenses. Therefore, the complainant is advised to approach the adjudicating officer for seeking the relief of litigation expenses.

F. Directions of the authority

25. Hence, in view of the factual as well as legal positions detailed above, the complaint filed by the complainant seeking above reliefs against the respondent no.1 is decided in terms of paras 9 to 24 above. Ordered accordingly.
26. Complaint stands disposed of.
27. Files be consigned to registry.



(Ashok Sangwan)
Member



(Arun Kumar)
Chairman

Haryana Real Estate Regulatory Authority, Gurugram

Dated: 30.09.2025

HARERA
GURUGRAM