



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

EXECUTION NO. 2033 OF 2023

IN

COMPLAINT NO. 2751 OF 2019

Jacintha Pinto and Gaurav Gilbert Pinto

.... DECREE HOLDERS

VERSUS

Dhingra Jardine Infrastructure Pvt. Ltd.

.... JUDGMENT DEBTOR

CORAM:

Parneet S Sachdev

Chairman

Nadim Akhtar

Member

Dr. Geeta Rathee Singh

Member

Chander Shekhar

Member

Date of Hearing: 09.10.2025

Hearing: 7th

Present: Mr. ParamRana, proxy counsel for Adv. Rajan Hans Counsel for the decree holders through Video call

None for Judgment debtor

ORDER (PARNEET S SACHDEV-CHAIRMAN)

1. The case was adjourned for 14.10.2025. However, as per the observations made by the Hon'ble High Court in CWP No. 14937 of 2024 titled *M/s*

Vatika Ltd. versus Union of India and others, in its order dated 24.04.2025, it has been directed that the execution petition be placed before this Hon'ble Authority. Pursuant to the said observations and directions, the present case has been adjourned from the Hon'ble Adjudicating Officer and is now taken up before this Hon'ble Authority for consideration today.

2. As per last order dated 21.04.2025, case was adjourned for arguments on the maintainability of the application dated 22.10.2024 filed by the decree holders.
3. Today, the learned counsel for the Decree Holder appeared and requested the Authority to allow the said application.
4. The Authority observes that the Hon'ble Adjudicating Officer, vide order dated 05.12.2024, has already provided detailed observations regarding the maintainability of the application dated 22.10.2024. Relevant portions of the order are reproduced herein for reference::

“Today, the case is fixed for submission of verified details of the property of judgment debtor by the decree holder.

Case was called several times but none has appeared on behalf of judgment debtor. No further wait is justified as it is already 03:00 P.M. Consequently, the judgment debtor is proceed against ex-parte in view of the provision of Order XXI Rule 105, CPC. It is not out of place to mention here that the Adjudicating Officer as an Executing Court has all the powers to exercise within the meaning of Section 40 of RERA Act, 2016 read with Rules 27 of HRERA Rules, 2017 as are exercised by a Civil Court while executing a



decree.

Instead of filing the details of the property, an application for issuance of direction to the federation (RWA), for delivery of possession of the shop, in compliance of order dated 01.06.2023 passed by Hon'ble Authority at Panchkula in Complaint no.2751 of 2019, has been filed by the decree holder. In the said application following prayers have been made;

I To direct the RWA, California Country to provide the possession of the above mentioned unit.

II To Implead the RWA, California Country as a party to the Execution Complainant for furtherance of the legal process.

III Any other relief / direction that the Hon'ble Authority deems fit and proper in the facts and circumstances of the present complaint.

Heard.

This Forum has gone through the relief granted by Hon'ble Authority in Complaint no.2751 of 2019, decided on 01.06.2023, wherein Hon'ble Authority while deciding the dispute between the present decree holder and the present judgment debtor had made following observations in respect of the relief granted;

I Authority directs the respondent to handover the possession of the unit to the complainants.

II Authority further directs the respondent to pay delay interest to the complainant of ₹ 12,59,862/- and further pay monthly interest of ₹ 18,241/- till handling over of possession.

III Respondent is directed to make entire payment to the complainant as depicted above within 90 days from the date of this order, as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017.

From the perusal of the contents of the complaint, the parties involved therein and the relief granted, it is clear that the dispute was between the allottee and the builder, wherein RWA had not been made a party, nor, the entire order of Hon'ble Authority has mention of RWA. Thus, it becomes debatable in this execution petition as to how this Forum in execution could pass directions to a party who has not been a party before the competent Authority



order of which is under execution? Similarly, it is undisputed legal position that a party which was not impleaded before the main Court or the trial Court or the competent Authority, the said third party cannot be impleaded by an executing Court until and unless as per Order I Rule 10 CPC, the third party has a direct interest in the subject matter and the Court also recognizes their claim. It is also undisputed position of law that "an executing Court cannot travel beyond decree." To hold so this Forum has taken strength from law laid down in Shiv Shankar Gurjar vs Dilip 2014 (6) RCR (Civil) Page 678 (SC), Lekh Raj (Dead) through LRs v/s Ranjit Singh and Others 2018(1) RCR (Civil) 687 (SC) and Sneh Lata Goyal vs Pushap Lata and Others, 2019(1) RCR (Civil) 808 (SC). Here, it is apt to note that though the present execution petition has been filed under an order passed by Hon'ble Authority exercising powers granted by a special statute which has an overriding effect on the general law but still on the face of it, when the RWA was not a party before the Hon'ble Authority in the complaint and is neither the promoter or the builder and has also not approached this Forum to get oneself impleaded having interest in the cause, being third party to the execution it cannot be permitted to be impleaded as prayed for more so when the RWA in the instant case do not fall in the category of "promoter or the builder", as the entire order of execution do not find mention of RWA.

With above observations, before this Forum dispose of this application on merit being not maintainable, give an opportunity to learned counsel for the decree holder to justify as to under which provision of law this Forum while exercising powers of an executing Court under Section 40 of the RERA Act, 2016 read with Rule 27 of the HRERA Rules, 2017, could grant the relief as prayed in the application dated 22.10.2024?

5. In view of the detailed observations made by the Hon'ble Adjudicating Officer regarding the maintainability of the application dated 22.10.2024, it is evident that the application lacks the necessary legal foundation for being


entertained. The Adjudicating Officer has already examined the scope and limitations of the executing Authority's powers under Section 40 of the RERA Act, 2016 read with Rule 27 of the HRERA Rules, 2017, and has clarified that the application seeks relief against a third party, namely the RWA, which was neither a party to the original complaint nor has any recognized legal interest in the execution proceedings. It is also settled law that an executing court cannot extend the decree beyond the parties and reliefs adjudicated in the original order. Therefore, having regard to the above and in consonance with the principles of law and the prior observations of the Hon'ble Adjudicating Officer, the Authority is of the considered view that the application dated 22.10.2024 filed by the Decree Holder is not maintainable and is therefore hereby dismissed.

6. Lastly, the decree holder is given last opportunity to file an affidavit of disclosure of all his movable and immovable properties, and free from any encumbrances supported by relevant documents to comply with provisions of Order XXI Rule 41(2) CPC, failing which this Forum would act in accordance with provisions of Order XXI Rule 41(3) CPC against the judgment debtor.
7. In addition, the judgment debtor is once again directed to comply with the order under execution without further delay. In case of failure to comply, the



Authority shall be constrained to impose a heavy penalty on the next date of hearing for repeated non-compliance of its directions. It is made clear that this order shall be treated as notice under Section 63 of the RERA Act, 2016 for initiating penalty proceedings against the judgment debtor in the event of continued default.

8. Case is adjourned to **05.02.2026** for compliance of order under execution.


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CHANDER SHEKHAR
[MEMBER]


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DR. GEETA RATHEE SINGH
[MEMBER]


.....
NADIM AKHTAR
[MEMBER]


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PARNEET S SACHDEV
[CHAIRMAN]