

**BEFORE THE HARYANA REAL ESTATE APPELLATE  
TRIBUNAL**

**Appeal No.1351 of 2019  
Date of Decision: 12.02.2020**

Sanjeet Kumar son of Shri Ishwar Singh, Resident of House No.3168, Mahavir Mandir Marg, near Kailash Book Depot, Rajpura, Punjab-140401

Appellant

Versus

1. Orris Infrastructure Private Limited, through its Managing Director, at RZ D 5, Mahavir Enclave, New Delhi-110045.
2. Three C Shelters Private Limited, through its Managing Director, at C-23, Greater Kailash Enclave I, New Delhi-110048.

Respondents

**CORAM:**

Justice Darshan Singh (Retd.)	Chairman
Shri Inderjeet Mehta	Member (Judicial)
Shri Anil Kumar Gupta	Member (Technical)

**Present:** Shri Raj Kumar Narang, Advocate, Ld. counsel for the appellant.  
Shri Veer Singh, Advocate, Ld. Counsel for respondent no.1.  
Respondent no.2 ex-parte.

**ORDER:**

**JUSTICE DARSHAN SINGH (Retd.) CHAIRMAN:**

The present appeal has been preferred against the order dated March 14<sup>th</sup>, 2019 passed by the learned Haryana Real Estate Regulatory Authority, Gurugram (hereinafter called ‘the Authority’) vide which the complaint filed by the appellant/allottee was disposed of in view of the decision in complaint bearing No.225 of 2018 titled as “Greenopolis Welfare Association Versus M/s Orris Infrastructure Pvt. Ltd.”

2. Learned counsel for the appellant has pleaded that the complaint filed by the appellant/allottee was an individual complaint wherein he has sought the relief of refund alongwith interest on account of delay in completion of the project. He contended that the complaint No.225 of 2018 was filed by the Welfare Association. There were totally different issues in that complaint wherein the main prayer was for completion of the project. He contended that no adjudication has been made by the learned Authority in the complaint filed by the appellant/allottee.

3. On the other hand, Shri Veer Singh, learned counsel for the respondent no.1 contended that the complaint No.225 of 2018 filed by the Welfare Association was in the representative capacity which will also cover the controversy raised by the appellant/allottee in his complaint. He contended that in the complaint No.225 of 2018 issue regarding refund was also dealt with and was declined. Thus, he pleaded that the order passed in complaint No.225 of 2018 will also cover the present complaint.

4. We have duly considered the aforesaid contentions.

5. The impugned order passed by the learned Authority reads as under: -

“Project is registered with the Authority.

Complaint bearing No.225 of 2018, titled as Greenopolis Welfare Association versus M/s Orris Infrastructure Pvt. Ltd. and another has already been

decided in a representative capacity. Since the subject matter is the same/identical, as such the decision in the above stated complaint shall be read in this complaint also.”

6. The aforesaid order passed by the learned Authority shows the complete non-application of the judicial mind to the complaint filed by the appellant/allottee. The appellant has filed his individual complaint seeking the relief of refund. The said complaint was being tried separately and was not clubbed with the Complaint No.225 of 2018. Learned counsel for the appellant has repeatedly pleaded that the appellant is not interested to participate in the project and he want to withdraw from the project and want refund of his amount in view of section 18 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called ‘the Act’).

7. We have gone through the judgment passed in Complaint No.225 of 2018 wherein only the passing reference has been given with respect to the relief of refund claimed by some of the allottees. But the main stress in the judgment dated January 23<sup>rd</sup>, 2019 was with respect to the completion of the project. So, the plea raised by the appellant for refund of his amount due to violation of section 18 of the Act should have been separately dealt with and adjudicated upon by the learned Authority. The individual complaint filed by the appellant should not have been disposed of in terms of the order passed in Complaint No.225 of 2018. There is nothing on the record to

show that the appellant was also the member of the Greenopolis Welfare Association. So, it cannot be stated that the complaint filed by the Greenopolis Welfare Association was in the representative capacity qua the present complaint also.

8. Thus, keeping in view our aforesaid discussions the present appeal is hereby allowed. The order dated March 14<sup>th</sup>, 2019 passed by the learned Authority is hereby set aside. The case is remitted to the learned Authority for adjudication of the complaint filed by the appellant/allottee afresh in accordance with law. The learned Authority will make every endeavour to dispose of the complaint filed by the appellant expeditiously as much time has already passed since the filing of the complaint.

9. The parties are directed to appear before the learned Haryana Real Estate Regulatory Authority, Gurugram on 26.02.2020. Copy of this judgment be communicated to the parties and the learned Authority.

10. File be consigned to records.

Announced:  
February 12, 2020.

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

Inderjeet Mehta  
Member (Judicial)

Anil Kumar Gupta  
Member (Technical)

Sanjeet Kumar  
Vs.  
Orris Infrastructure Pvt. Ltd.  
Appeal No.1351 of 2019

Present: Shri Raj Kumar Narang, Advocate, Ld. counsel for the  
appellant.  
Shri Veer Singh, Advocate, Ld. Counsel for  
respondent no.1.  
None for respondent no.2.

As per the report of the office, the notice to both the  
respondents was delivered. Shri Veer Singh, Advocate has  
appeared on behalf of the respondent no.1 and has filed Memo  
of Appearance.

As per the Track Consignment report, notice has also been  
delivered to the respondent no.2. Even the respondent no.2 was  
intimated through email. But none is present on behalf of the  
respondent no.2. Thus, the respondent no.2 is proceeded  
against ex-parte.

Arguments heard.

Vide separate detailed judgment of the even date, the  
appeal is allowed.

Copy of the detailed judgment be communicated to the  
parties and the learned Authority.

File be consigned to records.

Justice Darshan Singh (Retd.)  
Chairman,  
Haryana Real Estate Appellate Tribunal,  
Chandigarh  
12.02.2020

Inderjeet Mehta  
Member (Judicial)  
12.02.2020

Anil Kumar Gupta  
Member (Technical)  
12.02.2020