



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Execution No. 2914 of 2022

In

Complaint No. 1347 of 2018

Brijesh Kumar Tripathi

....DECREE HOLDER

VERSUS

Asian Developers Ltd.

.....JUDGMENT DEBTOR

CORAM:

Parneet S Sachdev

Chairman

Nadim Akhtar

Member

Dr. Geeta Rathee Singh

Member

Chander Shekhar

Member

Date of Hearing: 19.02.2026

Hearing: 9th

Present:-

None for the decree holder.

None for judgment debtor.

ORDER (PARNEET S SACHDEV-CHAIRMAN)

1. Background of the matter is that the captioned complaint was dismissed in default vide order dated 10.12.2024. Order dated 10.12.2024 is reproduced below for reference:-

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“Case is fixed for settlement failing which for compliance. Case called several times but none has appeared on behalf of decree holder in compliance of order dated 25.07.2024. It is already 04:00 PM. No further wait is justified. Hence, the present execution petition is dismissed in default for want of prosecution in view of the provisions of Order 21 Rule 105 of CPC, as this Forum while exercising the power under Section 40 of the RERA Act, 2016 read with Rule 27 of HRERA, Rules, 2017, is competent to act as a Civil Court, to execute the order as if it is a decree. Similarly, the judgment debtor is also proceeded against ex-parte due to non-appearance.

File be consigned to consigned record room.”

2. Decree holder had filed an application in registry on 23.01.2025 seeking restoration of execution complaint to its original number as non-appearance on their part was unintentional. File was taken up on receipt of said application on 01.07.2025. But 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 was adjourned from the Hon'ble Adjudicating Officer for hearing before this Hon'ble Authority for consideration.
3. Thereafter, captioned case was taken up for hearing on 09.10.2025, whereby restoration application filed by the decree holder was allowed with following observations and directions:

“2. As per order dated 01.07.2025, it was duly recorded that notice has been issued to both parties which has been duly served.

3. Today, ld. counsel for decree holder appeared and requested to restore the execution which was dismissed in default on 10.12.2024 due to nonappearance as mistakenly his presence was not marked.

4. On the contrary, none has appeared on behalf of the judgment debtor despite service of notice of the restoration application on the last date of hearing, i.e., 01.07.2025. Even today, no one has marked appearance on behalf of the judgment debtor. Hence, it is presumed that the judgment debtor has no objection, if the application for restoration filed within stipulated time giving justified reasons, is allowed.

Accordingly, application for restoration is allowed.

5. Office is directed to restore the execution with its old number and notice be issued to judgment debtor for 19.02.2026 for necessary compliance.

6. For getting the amount recovered, the decree holder is directed to file bank account/property details of judgment debtor company for the purpose of the attachment duly supported by an affidavit in support thereof, so that only the verified bank account/property of the judgment debtor is legally got attached in accordance with law, for recovery of the decretal amount.

7. On filing of the list and the affidavit, let, warrant of attachment be issued returnable on or before 19.02.2026."

4. As per office record, no documents have been filed by the decree holder till date.
5. Today, when case was called for hearing none appeared for the decree holder as well as for judgment debtor.
6. Keeping in view, the fact that decree holder had already availed 134 days for complying with the last order dated 09.10.2025, vide which opportunity was given to him to prosecute his case further by way of filing the details of bank account/property details of judgment debtor company for the purpose of the attachment, so that decree may be

satisfied at the earliest. However, decree holder neither appeared nor complied with the last order.

7. **At this stage, the Authority deems it fit to elucidate the law on adjournments**, especially frivolous ones where the only purpose is to somehow delay the proceedings. Such delays adversely affect the dispensation of justice. *Order XVII Rule 1 of CPC*, specifically governs adjournments. This empowers a court to grant adjournments at any stage of a suit if "sufficient cause" is shown. It mandates that the reasons for adjournment must be recorded in writing and imposes a limit of a maximum of three adjournments for a party during the hearing of the suit to prevent delays. However, the court can still grant further adjournments in extraordinary circumstances, and costs can be imposed for adjournments. In Summary proceedings as under RERD ACT, the adjournment rule even more stringent.

The court may dismiss a case, strike out pleadings or not consider the submissions of a party who is repeatedly and deliberately misusing adjournments and fails to proceed with the case. The Court may also dismiss the suit for non-prosecution. Defence may also be struck off in case of repeated/ frivolous delays by the respondent. Advocates who misuse adjournments render themselves liable for disciplinary action by the Bar Council or relevant legal authority. Such conduct can amount to professional misconduct under Bar Council rules or ethical codes.



In the case of *Shiv Cotex v. Tirgun Auto Plast* (2011) 9 SCC 678, the Hon'ble Apex Court has stated as below:-

"No litigant has a right to abuse the procedure provided in CPC. Adjournments have grown like cancer corroding the entire body of justice delivery system." (para 16).

Similarly in para 17 of the order, the Hon'ble Apex court recorded as below

"A party to the suit is not at liberty to proceed with the trial at its leisure and pleasure and has no right to determine when the evidence would be let in by it or the matter should be heard. The parties to a suit — whether the plaintiff or the defendant — must cooperate with the court in ensuring the effective work on the date of hearing for which the matter has been fixed. If they don't, they do so at their own peril."

In the present case, the Authority had given multiple opportunities to decree holder as stated above in para 1-3 of this order. However, the decree holder decided to pay no heed to the directions issued by the Authority. Proceedings before this Authority, though summary in nature, are nevertheless judicial in character.

The conduct of the decree holder in the present case reflects a lack of diligence. The Supreme Court in *Bimal Kumar and Another v. Shakuntala Debi and Others*, (2012) 3 SCC 548, has held that a litigant who approaches a judicial forum must prosecute his case with due diligence and cannot seek indulgence of the Court by adopting a casual approach. Similarly, in *Salem Advocate Bar Association (II) v. Union of India*, (2005) 6 SCC 344, the Supreme Court underscored that procedural

discipline is integral to the administration of justice, and that courts are not obliged to grant repeated adjournments in the absence of sufficient cause.

Order XVII Rule 3 of the Code of Civil Procedure, 1908, though not strictly binding upon this Authority, embodies a salutary principle—that where a party, despite opportunity, fails to produce evidence or take necessary procedural steps, the court may proceed to decide the matter. *The Supreme Court in Arjun Singh v. Mohindra Kumar, AIR 1964 SC 993*, emphasised that procedural law is not an empty formality and that defaulting parties cannot claim indefinite indulgence.

It is trite that “law assists the vigilant and not those who sleep over their rights” (*State of Maharashtra v. Digambar, (1995) 4 SCC 683*). In the present case, the complainant, having invoked the jurisdiction of this Authority, was expected to act with expedition. ***A period of 134 days for non-compliance of the previous order cannot be characterised as a mere inadvertent lapse.***

The scheme of the RERA Act mandates expeditious adjudication. Section 29 envisages disposal of complaints as expeditiously as possible. Such legislative intent would be defeated if complainants are permitted to stall proceedings through procedural non-compliance.

execution complaint. The repeated failure to comply with orders, despite ample opportunity, constitutes sufficient ground to dismiss the present execution complaint for non-prosecution. Accordingly, the execution complaint stands **dismissed** for non-prosecution.

8. File be consigned to record room after uploading of this order on the website of the Authority.


CHANDER SHEKHAR
[MEMBER]


DR. GEETA RATHEE SINGH
[MEMBER]


NADIM AKHTAR
[MEMBER]


PARNEET S SACHDEV
[CHAIRMAN]