

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.887 of 2024

Date of Decision: April 30, 2026

Rajendra Singh, resident of P.O. Box 34666, Dubai, U.A.E.
(permanent address at Flat No. 265, D.D.A. Flat, Pocket-1, Sector
1, Dwarka, New Delhi.

Appellant

Versus

M/s. JMD Limited through its Director/Managing Director,
having its Corporate Office at JMD Regent Square, 3rd Floor,
Main Mehrauli Gurgaon Road, Gurugram.

Respondent

CORAM:

**Justice Rajan Gupta
Dr. Virender Parshad
Dinesh Singh Chauhan**

**Chairman
Member (Judicial)
Member (Technical)**

Present : Ms. Divyanshi Rathore, Advocate and
Mr. Tushar Bahmani, Advocate,
for the appellant.

Mr. Anmol Jindal, Advocate for
Mr. Yashvir Singh Balhara, Advocate,
for the respondent.

ORDER:

VIRENDER PARSHAD, MEMBER (JUDICIAL)

The challenge in this appeal is to order dated
20.08.2024 passed by the Authority¹.

2. Before embarking upon the actual facts, it is
necessary to point out some background regarding filing and
re-filing of the present appeal.

3. The appeal was initially filed before this Tribunal on
11.12.2024. However, the Registry of the Tribunal had raised

¹ Haryana Real Estate Regulatory Authority, Gurugram

certain objections. After removing the objections, the appellant re-filed the appeal on 31.01.2025.

4. Crux of the facts gathered from the record relevant for the disposal of this appeal is that the appellant got booked one commercial unit vide agreement dated 29.11.2011 in the project of the respondent located at Sector 67, Gurugram, Haryana. The appellant had deposited the amount of Rs. 48,40,486/- with the respondent in between 26.09.2010 to 27.12.2016. The respondent failed to adhere to the terms and conditions of the agreement dated 29.11.2011 which forced the appellant to file a complaint No. 549/2019 before the Real Estate Regulatory Authority, Gurugram seeking direction to hand over the physical possession of the unit and delayed possession charges with interest and Rs.5 lacs compensation for mental agony suffered by him.

5. The said complaint came up for hearing before the Authority on 23.01.2024. On that date, counsel for the appellant could not appear before the Authority due to his ill-health. This resulted into dismissal of the complaint in default by the Authority on 23.01.2024. Thereafter, the appellant moved an application on dated 21.03.2024 for restoration of the complaint which was dismissed in default vide order dated 23.01.2024. The said application was also dismissed in default on 30.04.2024 due to non-appearance of counsel for the appellant before the Authority. Unfortunately, on that date, counsel was occupied with heavy professional work and could not reach before the Authority to pursue the restoration application. The Authority, on 30.04.2024, dismissed the application on the ground that the complainant is not interested to pursue the application as well as the complaint.

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Against order dated 30.04.2024, the appellant moved an application for revival of the complaint. Same was also dismissed vide order dated 20.08.2024.

6. Feeling aggrieved against the order dated 20.08.2024, the appellant knocked at the door of this Tribunal by preferring the instant appeal, seeking the following relief :

- *Set aside the impugned order dated 20.08.2024 passed by the Haryana Real Estate Regulatory Authority, Gurugram.*
- *Restore the complaint to its original position and direct the Haryana Real Estate Regulatory Authority to hear the matter on merits.*
- *Pass any other order(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice.*

7. Initiating the arguments, learned counsel for the appellant contended that the non-appearance of the applicant's counsel at the time of dismissal of the complaint and subsequently dismissal of the restoration application and further revival application was attributed to the counsel and not to the appellant. The appellant with his best understanding, engaged the counsel believing that he will appear on the date before the Authority, but unfortunately, his learned counsel could not appear on 23.01.2024 due to his ill-health and on dated 30.04.2024 due to heavy professional engagements. However, his counsel reached the premises, but by that time, restoration application was dismissed. The dismissal of the revival application on 20.08.2024 also shows that the Authority was nurturing bias against the appellant due to his non-appearance on the earlier dates and ultimately, dismissed the revival application vide order dated 20.08.2024.

8. With these submissions, learned counsel supplicates that the order dated 20.08.2024 may be set aside and complaint bearing No. 549 of 2019 may be restored to its original number so that a fair opportunity can be given to the appellant to contest his matter on merits.

9. Replying to the above arguments, learned counsel for the respondent vehemently argued that the appellant and his counsel remained negligent in attending the proceedings before the Authority. The appellant has failed to establish “sufficient cause”, therefore, the prayer of the appellant cannot be accepted.

10. We have given our thoughtful hearing and examined the record in between the lines. Our findings with reasons thereof are as under :

11. Admittedly, a commercial unit was got booked by the appellant in the project of the respondent by virtue of agreement dated 29.11.2011. He had made the payment of Rs. 48,40,486/-. The prayer made by the appellant in his original complaint indicates that the respondent did not deliver the possession in terms of the agreement. The appellant has paid handsome amount to the respondent of his hard-earned money. The bonafide allotment cannot be allowed to bury on procedural technicalities like non-appearance of the counsel. The appellant substantiated the contents of his appeal with duly sworn-in affidavit. Non-appearance of his counsel on 23.01.2024 was due to his ill-health and on dated 30.04.2024 due to his heavy engagement in professional work. It is well-settled that the judicial forums should give parties a fair opportunity to contest their matters on merits. The Authority could at least send one notice to the appellant that his counsel

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did not appear on a particular date. It is also necessary to note that the appellant is a resident of Dubai. Strict rules of Civil Procedure Code are not applicable on the proceedings conducted by the Authority and the Tribunal. The object of the RERA Act is to protect the interest of the consumers and mainly the provisions are made under the Act to check and regulate the promoters. The main duty function of the buyer is to make the payments as per the schedule and it seems that the appellant had been doing the same by way of depositing Rs. 48,40,486/- in between 26.09.2010 to 27.12.2016.

12. In view of the matter, we are of the view that the order dated 23.01.2024 of dismissal of the complaint, dated 30.04.2024 dismissal of the restoration application and subsequently order dated 20.08.2024 dismissing the revival application deserve to be set aside and the complaint needs to be restored to its original number. Ordered accordingly.

13. Appeal is allowed in the above terms.

14. Copy of this order be sent to the parties/their counsel and the Authority.

15. File be consigned to the records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

Dinesh Singh Chauhan
Member (Technical)

April 30, 2026

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