



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

BEFORE ADJUDICATING OFFICER

EXECUTION NO. 2591 OF 2023

IN

COMPLAINT NO. 2502 OF 2022

Uma Khanna

....Complainant/Decree Holder

VERSUS

Movish Realtech Pvt. Ltd.

....Respondent /Judgment Debtor

Date of Hearing: 12.05.2026

Hearing: 12th

Present: Sh. Kunal Thappa, Adv., for the Complainant/decree holder through VC.
Sh. Kamaljeet Dahiya Adv., for the Respondent/judgment debtor through VC.


ORDER

Today, case is fixed for pronouncement of order.

2. Vide separate detailed order of even date, the execution stands disposed of being non-executable.
3. File be consigned to record room after due compliance.

Let, the order be uploaded on the web portal of the Authority.

Akhil Bhardwaj
Law Associate


MAJOR PHALIT SHARMA
ADSJ(Retd.)
ADJUDICATING OFFICER
12.05.2026



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Present:

Sh. Kunal Thappa, Adv., for the Complainant/decree holder through VC.

Sh. Kamaljeet Dahiya Adv., for the Respondent/judgment debtor through VC.

ORDER

This order of mine will dispose of a legal issue raised during execution proceedings by the judgment debtor as to whether the order dated 02.05.2023 under execution is non-executable as there had been non-compliance of mandatory provisions of Section 71 of the RE(RD) Act, 2016 (hereinafter to be referred as the Act, 2016) read with Rule 28 (2)(m) and the Rule 29(1)(a) of the HIRERA Rules, 2017 (hereinafter to be referred as the Rules, 2017)?

Phalit
12/05/2026

2. Learned counsel for the decree holder has argued that in the present execution wherein the order of grant of compensation by the then Adjudicating Officer of this Forum has attained finality, the judgment debtor has no legal right to raise an objection to executability of the order dated 02.05.2023 passed. He has further argued that objection has been made on the ground that the order dated 02.05.2023 passed by the then Adjudicating Officer is passed against the procedures so laid in the RE(RD) Act, 2016 (hereinafter to be referred as the Act, 2016) read with IIRERA Rules, 2017 (hereinafter to be referred as the Rules, 2017), which objection was not raised during enquiry before learned Adjudicating Officer, so, it can't be raised now in execution. He has further argued that the complainant had initially applied for refund of the amount but under the orders of the Hon'ble Authority at Panchkula, the complainant again availed liberty to pursue complaint against the respondent to seek possession along with delayed interest as well as compensation and the said matter is pending adjudicating before Hon'ble Authority. He has further argued that at this stage of execution, when the order under execution has attained finality without there being any challenge in appeal, which otherwise was passed by the then learned Adjudicating Officer having inherent jurisdiction to grant the relief of compensation, no authority lies with the judgment debtor to challenge the maintainability of the execution petition and even this Forum in execution in view of the law laid down by Hon'ble Apex Court in "**Sunder Dass v/s Ram Prakash 1997(2) SCC 662**" and "**Harpal Singh v/s Ashok Kumar**", Civil

Appeal no.02297 of 2017, date of decision 15.12.2017 can also not travel behind the decree nor it can question order's legality or correctness as was passed as per competence of the Adjudicating Officer. He has further argued that the order dated 02.05.2023 under execution clearly indicates as to how learned Adjudicating Officer having jurisdiction over the subject-matter had applied its mind to grant relief of compensation having provisions of Section 72 of the Act, 2016 in its mind and how it successfully exercised its jurisdiction to grant compensation, which is a parallel remedy under the Act, 2016 and is different from the right of the allottee to take possession with delayed interest. He has further argued that learned counsel for the judgment debtor has though claimed lack of inherent jurisdiction with the Adjudicating Officer while granting the relief of compensation but it has failed to explain as to how the decision in question is a nullity in the eyes of law. He has further argued that in the instant case, when Adjudicating Officer had power and jurisdiction under Section 71 read with Section 72 to pass order dated 02.05.2023, which has attained finality, the judgment debtor cannot request this Forum in execution to treat such order as nullity, nor this Forum can refuse to execute the order passed by the learned Predecessor having inherent jurisdiction to grant the relief. Finally, while reiterating his argument that this Forum in execution cannot travel beyond decree in this case wherein relief has been granted as per the procedure laid in the Act and the Rules, let the objection to executability of the order be rejected and the two applications moved on behalf of the decree holder under

Order XXI Rule 37 and Order XXI Rule 41 of the Civil Procedure Code, be decided in time bound manner against the judgment debtor so that the order under execution is satisfied at the earliest.

3. On the other hand, learned counsel for the judgment debtor has argued that in the case in hand, since the then learned Adjudicating Officer had granted the relief of compensation against the procedures laid in Section 71 read with Rule 28(2)(m) and 29(1)(a) of the Rules, 2017, such order is non-executable being nullity as was passed by learned Adjudicating Officer without having inherent jurisdiction to deal with issue of grant of compensation without there being an order of Hon'ble Regulatory Authority establishing violation on the part of promoter. While placing reliance on the law laid down by Hon'ble Apex Court in "**Odisha State Financial Corporation vs Vigyan Chemical Industries and Others**", Civil Appeal no.10047 of 2025, decided on dated 05.08.2025, particularly para 15 and 16 of the same, he has argued that executing Court can entertain objection at any stage of the proceedings when such objection is raised with regard to the power of judicial/quasi-judicial Authority to pass an order based on the ground of lack of jurisdiction to entertain the subject or on the ground that while entertaining the subject the proper procedure laid in the relevant Act and Rules was totally ignored to grant the relief. For ready reference, the relevant portion of para 15 and 16 are reproduced below;

¹
Pratik
12/05/2026

"15. Before analysing the facts, it must be acknowledged that the present appeal arises out of a challenge to the order of the High Court under Article 227, whereby the High Court refused to set aside the dismissal of the application filed under Section 47 CPC. The scope of interference at the stage of execution is limited to certain exceptions. As per Section 47, the Executing Court is empowered to examine the questions relating to execution, discharge, or satisfaction of the decree. It cannot go beyond the decree; but at the same time, when a plea is raised that the decree is a nullity and hence, unenforceable, the executing court is bound to examine and decide such an application on its merits.

16. It is a settled position of law that a court executing a decree cannot go behind the decree passed between the parties or their representatives, unless the decree is a nullity. The court must execute the decree according to its tenor, and cannot entertain objections on the ground that the decree is erroneous in law or on facts. Until it is set aside by an appropriate proceeding in appeal or revision, a decree, even if erroneous, remains binding on the parties. A decree may, however, be challenged in execution proceedings, if it is a nullity - for instance, if it is passed without bringing on record the legal representative of a person who was dead at the time the decree was passed, or where the cause of action was not maintainable, or if it was passed against a ruling prince without a certificate. An objection in that behalf may be raised in the execution proceedings. Similarly, when the decree is made by a court that has no inherent jurisdiction to pass it, an objection as to its validity may be raised in an execution proceeding if the objection appears on the face of the record."

He has further argued that though the provisions of Civil Procedure Code are not applicable in the matters covered under the Act, 2016, but still in execution matter, in the interest of justice, Section 47 of Civil Procedure Code may come into play which authorizes an executing Court to go behind the decree to hold that the decree is non-executable as the case in hand is. He has further argued that in the instant case wherein admittedly the complaint of the decree holder seeking possession with delayed interest within the meaning of Section 18(1) of the Act, 2016, is pending adjudication before

⁵
Phalit
12/05/2026

Hon'ble Authority at Panchkula, meaning thereby violations, if any, on the part of the promoter are yet to be established by the Regulatory Authority in view of the law laid down by Hon'ble apex Court in Civil Appeal no.(s) 6745-6749 of 2021 arising out of SLP (Civil) No(s).3711-3715 of 2021 titled as "**Newtech Promoters and Developers Pvt. Ltd. v/s State of U.P. & Ors.**", so the order dated 02.05.2023 of compensation passed by the then learned Adjudicating Officer, having been passed against the mandatory provisions of law, be declared null and void resulting into holding of the present execution non-executable. Finally, he has prayed to dispose off the execution it being non-maintainable.

4. In reply to the arguments advanced for the judgment debtor, learned counsel for the decree holder has in addition to the arguments advanced earlier to prove executability of the order under execution, has argued that there is no bar in the execution matters to apply provisions of Civil Procedure Code by the executing Forum as Section 40 of the Act, 2016 read with Rule 27 of the Rules, 2017, empowers such executing Forum to execute an order in the manner a Civil Court executes its decree and the said provisions have not legally been disturbed so far by our Hon'ble High Court as well as Hon'ble apex Court on this point. Finally, he has prayed to reject the objection so raised to executability of the order under execution and to get the decree satisfied at the earliest.

Phalit
12/05/2020

5. With due regards to the rival contentions and facts on record, the main question before this Forum to decide is whether or not the present order dated 02.05.2023 under execution passed by Ld. Predecessor of this Forum while granting compensation within the meaning of Sections 71 and 72 of the RE (RD) Act, 2016 (*hereinafter referred to as the Act, 2016*), read with Rules 28(2)(m) and 29 of RERA Rules, 2017 (*hereinafter referred to as the Rules, 2017*), is legally executable as there has been no prior mandatory compliance of provisions of Rules 28(2)(m) and 29 of the Rules, 2017, on the part of the complainant?

(A) Before answering this question, this Forum would refer to prescribed procedure relating to filing of the complaint(s) before the Regulatory Authority and the Adjudicating Officer, given in the Act, 2016, and the Rules, 2017;

Complaint before Authority

Section 31: Filing of complaints with the Authority or the adjudicating officer:

(1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder, against any promoter, allottee or real estate agent, as the case may be.

Explanation.—For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force.

(2) The form, manner and fees for filing complaint under sub-section (1) shall be such as may be [prescribed].

Provisions of Section 31 indicates that it speaks about filing of complaint before the Regulatory Authority as well as

7
Phalit
12/05/2023

before the Adjudicating Officer as per form prescribed which are prescribed under the headings as 'CRA' (Rule 28(1) and 'CAO' (Rule 29(1)). How, a complaint filed under Section 31 of the Act, 2016, is to be proceeded with is described in Rule 28 of the Rules, 2017 and while conducting enquiry what all powers the Regulation Authority can exercise is mentioned in Section 35 of the Act, 2016. For ready reference, relevant portion of Rule 28(1) and 2(m) of Rules, 2017 as well as Section 35 of the Act, 2016, are reproduced below:

28. Filing of complaint with Authority (section 31), and inquiry into allegations of contravention (2) or violations (section 35) and disposal of complaint (section 36, section 37 and section 38). -

(1) Any aggrieved person may file a complaint with the Authority for any violation or contravention of the provisions of the Act or the rules and regulations made thereunder, against any promoter, allottee or real estate agent as the case may be in Form 'CRA', or in the form specified in the regulations, which shall be accompanied by a fees as prescribed in Schedule III in the form of a demand draft or a bankers cheque drawn on a Scheduled bank or online payment in favour of "Haryana Real Estate Regulatory Authority".

- (2) (a) xxxx
 (b) xxxx.
 (c) xxxx.
 (d) xxxx.
 (e) xxxx.
 (f) xxxx.
 (g) xxxx.
 (h) xxxx.
 (i) xxxx.
 (j) xxxx.
 (k) xxxx.
 (l) xxxx.

(m) "If the complaint in form 'CAO' filed before the adjudicating officer for adjudging quantum of compensation, the complaint shall be admissible from the stage of concluding inquiry by the Authority that respondent being promoter has violated or contravened provisions of the Act or the rules or regulations made thereunder warranting liability of the promoter to pay compensation to the allottee under the

8
 Pralit
 12/05/2020

provisions of the Act or the rules or regulations made thereunder. The Authority may refer the matter to the adjudicating officer for adjudging the quantum of compensation payable to the complainant allottee, and direct both the parties to appear before the adjudicating officer on the appointed day. The quantum of compensation payable to the complainant may be expressed by the adjudicating officer in the form of lump sum amount or in the form of percentage of interest on the amount paid by the complainant to the respondent promoter (compensation expressed in terms of interest i.e. compensatory interest)."

Section 35: Powers of Authority to call for information, conduct investigations.

(1) Where the Authority considers it expedient to do so, on a complaint or suo motu, relating to this Act or the rules or regulations made thereunder, it may, by order in writing and recording reasons therefore call upon any promoter or allottee or real estate agent, as the case may be, at any time to furnish in writing such information or explanation relating to its affairs as the Authority may require and appoint one or more persons to make an inquiry in relation to the affairs of any promoter or allottee or the real estate agent, as the case may be.

(2) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under sub-section (1), the Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

- (i) the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Authority;
- (ii) summoning and enforcing the attendance of persons and examining them on oath;
- (iii) issuing commissions for the examination of witnesses or documents;
- (iv) any other matter which may be prescribed.

Perusal of Rule 28 of Rules, 2017, indicates that it lays down the procedure as to how the complaint be filed before the Regulatory Authority under Section 31 of the Act, 2016 and enquiry thereon is to be

⁹
Phaliv

12/05/2026

conducted as per guidelines laid in Section 35 of the Act, 2016, to pass orders as mentioned in Sections 36, 37, 38 of the Act, 2016.

The sub Rule 28(2)(m) in particular makes it clear that the complaint for compensation is admissible from the stage of concluding enquiry by the Regulation Authority. It means that it is mandatory for filing a complaint for compensation that such complaint shall only be admissible on the concluding enquiry of Authority, holding therein that promoter has violated or contravened the provisions of Act 2016 or the Rules or Regulations made under thereunder. The word "shall" used in Rule 28(2)(m) has to be construed in its true sense to meet the real object of this special welfare oriented statute without giving it any other connotation to dilute its impact.

Complaint before Adjudicating Officer

Now, this Forum would refer to relevant provisions of Section 71 and provisions of Rule 29 which deals with filling of complaint before the Adjudicating Officer and summary procedure to be adopted by the Adjudicating Officer, to grant compensation.

Section 71: Power to adjudicate.

(1) For the purpose of adjudging compensation under sections 12, 14, 18 and section 19, the Authority shall appoint in consultation with the appropriate Government one or more judicial officer as deemed necessary, who is or has been a District Judge to be an adjudicating officer for holding an inquiry in the prescribed manner, after giving any person concerned a reasonable opportunity of being heard:

Provided that any person whose complaint in respect of matters covered under sections 12, 14, 18 and section 19 is pending before the Consumer Disputes Redressal Forum or the Consumer Disputes Redressal Commission or the National Consumer Redressal Commission, established under section 9 of the Consumer Protection Act, 1986, on or before the commencement of this Act, he may, with the permission of such Forum or Commission, as the case may be, withdraw the complaint pending before it and file an application before the adjudicating officer under this Act.

10
Pratik
12/05/2026

(2) The application for adjudging compensation under sub-section (1), shall be dealt with by the adjudicating officer as expeditiously as possible and dispose of the same within a period of sixty days from the date of receipt of the application:

Provided that where any such application could not be disposed of within the said period of sixty days, the adjudicating officer shall record his reasons in writing for not disposing of the application within that period.

(3) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may direct to pay such compensation or interest, as the case may be, as he thinks fit in accordance with the provisions of any of those sections.

Perusal of Section 71 indicates that an Adjudicating Officer is to be appointed by Hon'ble Authority to adjudge compensation under Section 12, 14, 18, and 19 of the Act, 2016, who is required to conduct enquiry in the prescribed manner. This Section does not mention what procedure is to be adopted to conduct enquiry in prescribed manner, which is provided in Rule 29, relevant portion of which is reproduced below;

"Rule 29(1)(a) Any aggrieved person may file an application/ complaint with the Adjudicating Officer for adjudging quantum of compensation as provided under sections 12,14,18 and 19, where violation by the promoter has been established by the Authority in an enquiry under section 35, in Form 'CAO' or in such form as specified in the regulations, which shall be accompanied by a fee as mentioned in Schedule III in the form of demand draft or a bankers cheque drawn on a Scheduled bank, or online payment in favour of "Haryana Real Estate Regulatory Authority" and payable at the branch of that bank at the station where the seat of the said Authority is situated."

Impact of co-joint reading of prescribed procedures.

The above described provisions, if read collectively, it emerges that Section 31 indicates that it deals with the provisions for filing complaint with the Regulatory Authority or Adjudicating Officer against the promoter, allottee, real estate agent, as the case may be, if there are any violations or contraventions of provisions of this Act or Rules and Regulations made thereunder. This Section also mentions that the complaint has to be filed as per the form, manner and fees so prescribed. The required format is given in the Form 'CRA' and this form pertains to a complaint before the Regulatory Authority to claim relief or directions or order and penalty proceedings under Section 31 read with Sections 35, 36, 37 and 38 of the Act, 2016. In nutshell, Section 31 does not relate to the procedure for filing the complaint for compensation but with provisioning of filing of complaint before Regulatory Authority or Adjudicating Officer, as per its subject and Section 35 speaks about procedure to conduct enquiry by Regulatory Authority when complaint under Section 31 is received. How a complaint is to be filed before the Adjudicating Officer has been prescribed in Rule 28 Sub rule 2(m) which mandates that conclusion of enquiry by Regulatory Authority under Section 35 of the Act, 2016, is must before filing of complaint for compensation.

Further, perusal of Rule 29 makes it clear that there is no provision in Rule 29 of Rules, 2017, which enables an allottee to apply for compensation under Section 71 of Act, 2016, read with Rule 29 of the Rules, 2017, directly by approaching Adjudicating Officer to get relief without approaching Regulatory Authority for conducting enquiry under Section 35 of the Act, 2016 read with Rule 28 of the Rules, 2017. It is worth to mention here that Rule 29 nowhere prescribes and even also Section 71, that to decide compensation, an Adjudicating Officer is also empowered to decide the violations on the part of the promoter besides adjudging compensation. Had it been the intent of the Legislature, it would not have had made amendment in Rule 29 vide Notification no. Misc-862/1/83/2019/ITCP dated 12.09.2019 to bring unamended Rule 29 in consonance with the requirement of filing a complaint for compensation as mandated in Rule 28(2)(m) as explained above. Further, by using the word in Rule 28 (2)(m) as, "complaint shall be

admissible", legislature has made its intent clear that complaint for compensation is only admissible when Regulatory Authority has concluded the enquiry and arrived at conclusion that there has been violations by the promoter of any of the provisions mentioned in Sections 12, 14, 18 and 19 of the Act, 2016. It is the reason that the form 'CAO' at Column 4 "facts of the case", requires such information. For ready reference, column 4 is reproduced below;

*"4. **Facts of the case:**/give a concise statement of facts and grounds of claim for compensation against the promoter and the contravention or violation of provisions of the Act or the Rules or regulations made thereunder as established by an enquiry under section 35 by the Authority being ground for claim of the compensation, if yes, copy be enclosed:"*

In view of the above observations, it is concluded that as per the procedure prescribed in the Act, 2016 and the Rules, 2017, violations and non-compliance of obligations are required to be established before the Regulatory Authority to enable the complainant to seek compensation. Undoubtedly, Regulatory Authority as well as the Adjudicating Officer have different powers to exercise and their judicial powers do not interfere in each other's domain. But, at the same time, the condition of Regulatory Authority deciding violations first and then Adjudicating Officer deciding whether or not the complainant deserves compensation, by no stretch of imagination could be construed as intruding in each other's affair. Rather, such two legal actions are supplementary to each other, which want harmonious interpretation. Moreover, the work to decide violation has been assigned to Regulatory Authority and not to the Adjudicating Officer and the Adjudicating Officer is assigned the job to decide compensation and not the violations. Had it been the intent of the legislature to allow the Adjudicating Officer to decide compensation after deciding violations and not by Regulatory Authority, it would have found such mention in prescribed procedure laid in Rule 29 or even Rule 28(2)(m) which is not the case. These observation of the Forum gets full support from the observations made by Hon'ble apex Court in M/s Newtech Promoters & Developers Pvt. Ltd. vs. State of UP & Ors. Etc." 2022(1) R.C.R. (Civil) 357, wherein it is specifically mentioned that "If the adjudication upon Sections

13
Pralit
12/07/2026

12, 14, 18 and 19 other than compensation as envisaged, if extended to the Adjudicating Officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the Adjudicating Officer under Section 71 and that would be against the mandate of the Act, 2016". The relevant Para 82 of the judgment is reproduced below;

"82.....that there is a complete delineation of the jurisdiction vested with the regulatory authority and the adjudicating officer. If there is any breach or violation of the provisions of Sections 12, 14, 18 and 19 of the Act by the promoter, such a complaint straightaway has to be filed before the regulatory authority. What is being referable to the adjudicating officer is for adjudging compensation, as reflected under Section 71 of the Act and accordingly rules and regulations have been framed by the authority for streamlining the complaints which are made by the aggrieved person either on account of violation of the provisions of Sections 12, 14, 18 and 19 or for adjudging compensation and there appears no question of any inconsistency being made, in the given circumstances, either by the regulatory authority or the adjudicating officer."

Hence, after having discussed the relevant provisions regarding filing of complaint before the Regulatory Authority and the Adjudicating Officer only conclusion to be arrived at is that the complainant to get compensation must have an order of the Regulatory Authority passed after enquiry concluded as per procedure laid in Section 35 read with Rule 28 of the Rules 2017, wherein Regulatory Authority has concluded that there had been established violations on the part of the builder/promoter, giving right to the complainant to claim compensation in addition to the relief got under Section 31, read with Section 35 of the Act, 2016.

- (B) A complaint for compensation is also not maintainable, if the allottee in general, had not withdrawn from the project or did not specifically plead for the grounds mentioned in Section 18(2) and (3) of

14
Phalit
12/05/2026

the Act, 2016. To hold so, findings of this Forum are based on the following relevant provision of Section 18 of the RE(RD) Act, 2016, which impliedly bars grant of compensation in such like cases;

(i) Section 18 - Return of amount and compensation

(1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building,

(a) *in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or*

(b) *due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:*

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.

(2) *The promoter shall compensate the allottees in case of any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, in the manner as provided under this Act, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.*

(3) *If the promoter fails to discharge any other obligations imposed on him under this Act or the rules or regulations made thereunder or in accordance with the terms and conditions of the agreement for sale, he shall be liable to pay such compensation to the allottees, in the manner as provided under this Act.*

If above described provision of Section 18(1) is considered for its application, it becomes crystal clear that it speaks about two kind of allottees; the one who withdraw from the project and another is the one who continues with the project and gets relief of possession. It further makes clear that the intention of legislature is to provide compensation to an allottee who withdraws from the project, in the manner provided under Sections 71 & 72 of the Act, 2016, read with Rules 28(2)(m) and Rule 29 of the IIRERA Rules, 2017 i.e. the manner prescribed under the Act, 2016 and the Rules, 2017. However, there is no mention in section 18(1) of the Act, 2016, of grant of compensation to an allottee who decides to continue with the project, means the one who gets relief of possession from the Regulatory Authority under Section 31 read with Section 35 of the Act, 2016. It is not out of place to mention here that in case of delay in handing over of possession, the allottee is entitled for only interest at the prescribed rate and not "compensation" as the suffix "including compensation" has not been provided by the Act, 2016, which otherwise is mentioned in respect of an allottee in Section 18(1), who withdraws from the project. It means, there is no provision made under Section 18(1) of the Act, 2016, to grant compensation to an allottee who does not withdraw from the project. In other words, his compensation is "grant of interest till delivery of possession."

Undoubtedly, Section 18(2) and (3) of the Act, 2016, speaks about grant of compensation to allottee where allottee suffers loss due to defective title of the land on which project is to be developed, or, has been developed. The demand of such relief is not subject to any limitation period. Similarly, Section 18(3) of the Act, 2016, also caters for the right of an allottee to get compensation where promoter fails to act as per the Rules, Regulations and the Act, or contravenes the terms & conditions of the agreement for sale. Academically, the word "any other" used in Section 18(3) of the Act, 2016, means that apart from the delay in possession, any other breach of the terms and conditions of the Agreement to sell or breach of the obligations imposed on promoter by the provisions of the Act, 2016 or the Rules, 2017, the promoter shall also be liable to compensate the allottee. But, the relief under Section 18(2) & (3) of the Act, 2016, is available only to those allottees who plead for relief on these grounds and prove it before the Regulatory Authority by adopting the procedure laid under Section 31 read with Section 35 of the Act, 2016 and the Rule 28 of the Rules, 2017, and then apply for grant of compensation under Section 71 of the Act, 2016. Legally, it is not permissible under the Act, 2016 and the Rules, 2017, that an allottee after having elected to continue with the project within the meaning of Section 18(1) and having got the relief of delivery of possession, is at liberty to adopt different grounds mentioned in Section 18(2) & (3) of the Act,

17
Plalif
12/05/2026

2016, to get the relief of compensation. For the sake of repetition, it is mentioned here that to give findings on the claim of violations on the part of promoter is the sole domain of the Regulatory Authority under Section 31 read with Section 35 of the Act, 2016, followed by grant of relief of compensation within the meaning of Sections 71 & 72 of the Act, 2016, read with Rule 28(2)(m) and Rule 29 of the Rules, 2017 by the Adjudicating Officer, in appropriate cases.

(C) The above described legal position regarding maintainability of a complaint for compensation makes one think clear that the Adjudicating Officer is competent to entertain a complaint for compensation to adjudicate, only if the allottee had elected to withdraw from the project and got the relief of refund with interest after having established before Regulatory Authority the violations as mentioned in Sections 12, 14, 18 and 19 of the Act, 2016, on the part of promoter, it is also clear that even if allottee is entitled to as per Section 18(2) and (3) of the Act, 2016, he/she must first resort to the provisions of Section 31 read with Section 35 of the Act, 2016, before pleading for compensation, within the meaning of Rule 28(2)(m) and Rule 29(1) of the IIRERA Rules, 2017, the legality of which has not been disturbed by Hon'ble Higher judicial Forums so far. In nutshell, the Adjudicating Officer has no jurisdiction to entertain a complaint for compensation where there is

18
Placet
12/05/2026

non-compliance of provisions of Section 31 read with Rule 28 or his case falls within the meaning of proviso to Section 18(1) of the Act, 2016.

6. After having discussed about mandatory requirements regarding maintainability of the complaint for compensation, now, it is to be seen in the case in hand, where complainant got relief of compensation, without admittedly resorting to provisions of Section 31 read with Section 35 of the Act, 2016 read with the Rules 28(2)(m) and Rule 29(1) of the Rules, 2017, is entitled to get his order of compensation executed?

Before proceeding further, this Forum would put it on record that neither the complainant has final order passed under Section 31 of the Act, 2016, nor, the Id. predecessor of this Forum has given its reasoning in its order of compensation as to how the relief of compensation was granted without there being violations established by the Regulatory Authority on the part of the promoter, which otherwise is mandate of the prescribed procedure laid in Rule 28(2)(m) and Rules 29(1) of the Rules, 2017. Similarly, this Forum is also not aware of any law laid down by our Hon'ble High Court or by Hon'ble apex Court, wherein after having discussed the prescribed procedure laid, it is held that the Adjudicating Officer can over look the mandate of Rule 28(2)(m) and Rule 29(1) of the Rules, 2017, to grant compensation.

Now, to answer the question discussed above, this Forum in execution would, at the outset put it on record that "The executing Court,

¹⁹
Phalit
12/05/2026

generally speaking, must execute the order as it stands. It can't question the correctness or validity of the decree except when it is without jurisdiction, and therefore a nullity".

(A) What does the term "Jurisdiction" means, has been discussed by Hon'ble Delhi High Court in S. Joginder Singh vs Nirmal Naini Mehra And Ors. AIR1986DELHI305 decided on dated, 3 September, 1985. The relevant para numbers 13 to 15 of it are reproduced below for ready reference;

"13 As defined by Saunders in Words and Phrases, Second Edition, "By jurisdiction is meant the authority which a court has to decide matters that are litigated before it or to take cognisance of matters presented in a formal way for its decision. The limits of this authority are imposed by the statute, charter or commission under which the court is constituted and may be extended or restricted by the like means". According to Stroud's Judicial Dictionary Fourth Edition "Jurisdiction" of a validly constituted court connotes the limits which are imposed upon its power to hear and determine issues between persons seeking to avail themselves of its process by reference (1) to the subject-matter of the issue or (2) to the persons between whom the issue is joined or (3) to the kind of relief sought, or to any combination of these factors."

14 Thus "jurisdiction" is the power and authority conferred by law upon a court, judge or tribunal to decide the disputes and make judgments/orders authorised by law.

15 There are in general three jurisdictional elements in every valid judgment, namely, jurisdiction of the subject matter, jurisdiction of the person and the power or authority to render the particular judgment. Absence of any of these jurisdictional elements would render the judgment void and a mere nullity. Such an order would be open to attack or impeachment in collateral proceedings including execution proceedings.

20
Pralit
12/05/2026

The above described definition of "jurisdiction" indicates that the Court has an authority to take cognisance of the matter only when such matter is presented before it in accordance with the procedure laid. If a Court or the party bypass any statutory procedure to grant or to get, as the case may be, the relief, such order would be open to attack or impeachment in collateral proceedings including execution. It is apt to observe here that there can be no waiver of a statutory requirement which is imposed in public interest.

(B) On what grounds, an order/decreed under execution could be challenged has been commented upon by Hon'ble apex Court in *Dhirendra Nath Gorai And Subal Chandrashaw And Others Vs. Sudhir Chandra Ghosh And Others, 1964 AIR 1300 decided on dated, 4th March 1964*, wherein it is observed as under;

"Where the court acts without inherent jurisdiction, a party affected cannot by waiver confer jurisdiction on it, which it has not. Where such jurisdiction is not wanting, a directory provision can obviously be waived. But a mandatory provision can only be waived if it is not conceived in the public interests, but in the interests of the party that waives it."

The above described law laid down in Dhirendra's case (*Supra*) makes it clear that if a party approaches a special court for relief on the subject which is not to be dealt with by the said court until and unless the mandatory procedure to be followed to seek relief on the part of the party concerned is followed, such specially constituted court under a special statute

21
Pratik
12/05/2026

cannot grant the relief prayed for and if granted, that is nonest in the eyes of law, even if party concerned, claims to have waived the mandatory procedure to be followed. On this point, it is worth to quote observation of Hon'ble Delhi High Court made in *S. Joginder Singh(Supra)* made, which read as under;

"Every illegality would not render a judgment a nullity. A directory provision can always be waived but a mandatory provision can be waived only if it is not enacted in public interest. In other words, violation of mandatory provision which is conceived in public interest would make the judgment/order void and a mere nullity."

Recently, Hon'ble Apex court in *Odisha State Financial Corporation vs. Vigyan Chemical Industries and Others (SLP (C) No. 1842 OF 2023)*, date of decision 05.08.2025, at its para no. 20, regarding grounds to challenge jurisdiction, has observed in the following manner;

"20. A decree passed without jurisdiction is null and void. A court is said to lack jurisdiction if it has no territorial jurisdiction, or if it has no pecuniary jurisdiction, or if its jurisdiction over the subject matter is circumscribed by any law. Such laws may be either substantive or procedural and may, by express provision or necessary implication, take away the jurisdiction of a court to deal with a matter, leaving no room for any judicial discretion. These provisions may either impose a total bar on the court from dealing with certain subject matters or impose any pre-conditions, non-compliance with which may prevent the court from entertaining the suit, even if it otherwise has jurisdiction over the subject matter. A plea questioning the jurisdiction of the court can be raised at any stage, including before the High Court or this Court, particularly when it involves a pure question of law."

The above described law makes it clear that even if a Court has jurisdiction over the subject matter but the party seeking relief has not abide by mandatory pre-conditions laid or not complied with the procedure to be followed at the time of filling of the petition/complaint, such Court will not be competent to deal with such suit for want of compliance of mandatory provisions. It means, if any order is passed in such suit, it can be challenged during execution on the ground of lack of jurisdiction:

(C) What would be the fate of an order passed "without jurisdiction" by a Court or quasi-judicial Forum has been settled by Hon'ble apex Court in Sunder Dass v/s Ram Prakash 1977 SCC (2) 662, decided on dated, 24th February 1977, a citation even relied by learned counsel for the decree holder, in the following manner;

"Now, the law is well settled that an executing court cannot go behind the decree nor can it question its legality or correctness. But there is one exception to this general rule and that is that where the decree sought to be executed is a nullity for lack of inherent jurisdiction in the court passing it, its invalidity can be set up in an execution proceeding. Where there is lack of inherent jurisdiction, it goes to the root of the competence of the court to try the case and a decree which is a nullity is void and can be declared to be void by any court in which it is presented. Its nullity can be set up whenever and whenever it is sought to be enforced or relied upon and even at the stage of execution or even in collateral proceedings. The executing court can, therefore, entertain an objection that the decree is a nullity and can refuse to execute the decree. By doing so, the executing court would not incur the reproach that it is going behind the decree, because the decree being null and void, there would really be no decree at all".

On similar lines, Hon'ble Delhi High Court in *S. Joginder Singh (supra)* has held at its para number 38, in the following manner;

"An order without jurisdiction or a void order is no order at all. It confers no right on the person in whose favor it presses to be, it in no way binds the person against Whom it is made. Such an order would be treated as a nullity whenever and wherever and for whatever purpose it is sought to be used or relied on as a valid order. Such an order was incapable of execution."

Even, in *Brakewel Automotive Components (India) (P) Ltd. v. P.R. Selvam Alagappan ((2017) 5 SCC 371)* Hon'ble apex Court has held as follows:

"23. Though this view has echoed time out of number in similar pronouncements of this Court, in *Dhurandhar Prasad Singh v. Jai Prakash University* [*Dhurandhar Prasad Singh v. Jai Prakash University, (2001) 6 SCC 534 ; AIR 2001 SC 2552*], while dwelling on the scope of Section 47 of the Code, it was ruled that the powers of the court thereunder are quite different and much narrower than those in appeal/revision or review. It was reiterated that the exercise of power under Section 47 of the Code is microscopic and lies in a very narrow inspection hole and an executing court can allow objection to the executability of the decree if it is found that the same is void ab initio and is a nullity, apart from the ground that it is not capable of execution under the law, either because the same was passed in ignorance of such provision of law or the law was promulgated making a decree unexecutable after its passing."

24
Phalit
12/05/2026

The gist of above described law is that “an order passed in ignorance of mandatory provisions of law is void ab initio and is a nullity, thus unexecutable.”

(D) Now, the next question arises whether the judgment debtor is barred to raise a legal objection during execution proceedings, if it had not raised that issue during the inquiry proceedings before Adjudicating Officer or even before the Civil Court?

The answer to this question is in negative as it has been held in “Union of India v. Jagat Ram Trehan & Sons”, (AIR 1996 Del 191) and “M/s Saraswat Trading Agency v/s Union of India”, 2004 Cal 267 that “if the Court finds that decree is a nullity, as contended by the judgment debtor the Court cannot proceed to execute it, and it is the duty of the Court to hold that the decree is not executable. Hence, the principle of waiver, acquiescence and estoppel cannot be applied to take away the legal right of the judgment debtor available under Section 47 of the Civil Procedure Code.”. In simple words, even if the judgment debtor has failed to raise the legal issue regarding non-compliance of mandatory provisions on the part of the complainant while pursuing his complaint for compensation, there is no bar upon the judgment debtor to raise such issue before the executing Court as principles of waiver, acquiescence and estoppel would not act against his legal

right to raise pure question of law during execution, provided in Section 47 of the Civil Procedure Code.

(E) Now, the question arises whether the provisions of section 31 read with section 35 of the Act, 2016 and provisions of section 71 read with section 72 of the Act 2016, read with Rule 28(2)(m) and Rule 29(1) of the RERA Rules, 2017, are mandatory being based on grounds of public policy or the object of the legislature was only to introduce these provisions in the special statute in directory form?

The answer is that these are mandatory being based on grounds of public policy, thus, any order passed in ignorance/ non-compliance thereto, would be non-executable because of the reasons given below;

The provisions of the Act, 2016 and the Rules, 2017 made thereunder are welfare oriented, specially made in the public interest. The object of the Act, 2016 is "to establish the Real Estate Regulatory Authority for the regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of consumers in the real estate sector and to establish an adjudicating mechanism for speedy dispute redressal." It means, the provisions of this Act, 2016, being based on public policy are mandatory in nature and not directory. The view of the this Forum gets support from the law laid down in Hon'ble Bombay High Court in *M/s*

Rashmi Realty Builders Pvt Ltd vs Mr. Rahul Rajendrakumar, Second Appeal No. 434 of 2023 decided on dated 25.10.2024, wherein it is held in brief that, "dispute covered by RERA cannot be termed as "a right in personam" " and also that "adjudication contemplated under RERA is as a matter of public policy and in the public interest". Once the provision of RERA are held to be based on public policy, any provision of it and the procedure related thereto laid therein is mandatorily to be followed in its letter and spirit without any deviation therefrom. Further, the sequence of the provisions so introduced in the Act, 2016, in the form of Sections 31 & 71 and Rules 28 & 29, in the Rules, 2017, also indicate that, first is establishment of violations by the Regulatory Authority on the part of promoter and then grant of compensation by the Adjudication Officer, in appropriate cases. If this be the legal position, it is safe to conclude that the Adjudicating Officer has no authority to grant compensation to an allottee, if the latter has not followed the procedure laid in section 31 read with section 35 of the Act, 2016 and Rule 28(2)(m) of the Rules, 2017. Even, before grant of compensation, it is mandatory for the Adjudicating Officer, to ensure that he/she strictly follow the mandate of Rule 29(1) of the Rules, 2017, as discussed above. In addition thereto, learned Adjudicating Officer is also bound to honour the dictate of Hon'ble apex Court made in *M/s Newtech Promoters & Developers Pvt. Ltd(supra)* which in lay man's language states that, "violation are to be commented by the Authority followed by grant of compensation by the Adjudicating Officer." In nutshell, any order passed in

27
Phaliv
12/05/2026

violations of prescribed procedure is an order passed without jurisdiction, thus a nullity.

7. With above observation, it is concluded that any order passed by the Adjudicating Officer in violation of mandatory procedure laid down in Section 71 of the Act, 2016, read with Rule 28(2)(m) and Rule 29(1) of the HRERA Rules, 2017, is without jurisdiction, void and a mere nullity, thus non-executable. If this be so, since, in the instant case, learned Predecessor of this Forum while granting relief of compensation, did not ensure the mandatory compliance of prescribed procedures laid in Rule 28(2)(m) and Rule 29(1)(a) of the HRERA Rules, 2017, on the part of complainant and also there is no reasoning given in the order for by passing such mandate, which otherwise legally not permitted, and further, learned counsel for the decree holder has not been able to show any law laid by our Hon'ble High Court and even Hon'ble apex Court, which empowers an Adjudicating Officer to grant compensation against the prescribed procedure laid in the Act, 2016 read with the Rules, 2017, this Forum has no option but to declare the order dated 02.05.2023 unexecutable.

8. Before parting with this order, this Forum would like to meet out a legal point raised by learned counsel for the judgment debtor, who has claimed that provisions of Civil Procedure Code are not applicable in execution proceedings initiated under the Act, 2016.

28
P. Lalit
12/05/2026

On this point, this Forum is of the view that certainly under the Act, 2016, to conduct an "inquiry" under Section 31 read with Section 35 of the Act, 2016, read with Rule 28 of the Rules, 2016, or under Section 71 of the Act, 2016 read with the Rule 29 of the Rules, 2017, the provisions of Civil Procedure Code are not applicable in general. But, the position is entirely different in case of execution/enforcement of an order/direction/decision of Adjudicating Officer/Authority or Appellate Tribunal by virtue of provisions of Section 40 of the Act, 2016, read with Rule 27 of the Rules, 2017, wherein these statutory authorities have been empowered to enforce order etc. in the same manner as if it were a decree or an order made by a Civil Court in a suit pending therein. It is only in a case of its inability to execute, it may send the matter to the Civil Court for its execution. For ready reference, these provisions are produced below;

Section 40:-Recovery of interest or penalty or compensation and enforcement of order, etc.—(1) If a promoter or an allottee or a real estate agent, as the case may be, fails to pay any interest or penalty or compensation imposed on him, by the adjudicating officer or the Regulatory Authority or the Appellate Authority, as the case may be, under this Act or the rules and regulations made thereunder, it shall be recoverable from such promoter or allottee or real estate agent, in such manner as may be prescribed as an arrears of land revenue. 24 (2) If any adjudicating officer or the Regulatory Authority or the Appellate Tribunal, as the case may be, issues any order or directs any person to do any act, or refrain from doing any act, which it is empowered to do under this Act or the rules or regulations made thereunder, then in case of failure by any person to comply with such order or direction, the same shall be enforced, in such manner as may be prescribed.

29
Phalit
12/05/2026

Rule 27:-Enforcement of order, direction or decision of adjudicating officer, Authority or Appellate Tribunal. section 40

(1) Every order passed by the adjudicating officer or the Authority or the Appellate Tribunal, as the case may be, under the Act or rules and the regulation made thereunder, shall be enforced by an adjudicating officer of the Authority or Appellate Tribunal in the same manner as if it were a decree or a order made by a civil court in a suite pending therein; and it shall be lawful for the adjudicating officer or the Authority or the Appellate Tribunal, as the case may be, in the event of its inability to execute the order, send such order to the civil court, to execute such order.

(2) The court may, for the purposes of compounding any offence punishable with imprisonment under the Act accept an amount as specified in the Table below:-

<i>Offence</i>	<i>Amount to be paid for compounding the offence</i>
<i>Punishable with imprisonment under sub section (2) of section 59.</i>	<i>five to ten percent of the estimated cost of the real estate project.</i>
<i>Punishable with imprisonment under section 64.</i>	<i>five to ten percent of the estimated cost of the real estate project.</i>
<i>Punishable with imprisonment under section 66.</i>	<i>five to ten percent of the estimated cost of the plot, apartment or building, as the case may be, of the real estate project, for which the sale or purchase has been facilitated.</i>
<i>Punishable with imprisonment under section 68.</i>	<i>five to ten percent of the estimated cost of the plot, apartment or building, as the case may be.</i>

The co-joint reading of Section 40 of the Act, 2016 read with Rule 27 of the Rules, 2017, clearly indicates following things;

³⁰
Phalit
12/05/2026

- (A) Section 40 of the Act, 2016, caters for provisions to recover interest or penalty or compensation or enforcement of order in such manner as may be prescribed as the arrears of land revenue;
- (B) Section 40 of the Act, 2016, empowers such Authority to enforce its order if not complied with, in such manner as may be prescribed;
- (C) Rule 27 of IIRERA Rules, 2017, prescribes the procedure to be adopted to enforce the order, directions/decision of Adjudicating Officer, Authority or Hon'ble Appellate Tribunal and it is to be read with Section 40 of the Act, 2016;
- (D) Rule 27 IIRERA Rules, 2017, prescribe the procedure for enforcement of orders by such quoted authorities in the same manner as if it were a decree or an order made by a Civil Court in a suit pending therein;
- (E) Rule 27 of IIRERA Rules, 2017, further caters for a situation wherein if such quoted Authority is unable to execute its order, it may send such order to the Civil Court to execute it;
- (F) Rule 27, further makes a provisions for the Court i.e. Civil Court to go for compounding in the manner described.

The above statutory provisions so described leads to only one conclusion that for the purpose of execution, the quoted statutory

Authorities created under the Act, 2016, are to act like a Civil Court to execute its order/direction/decision in the manner a Civil Court does. It is not out of place to mention here that the Civil Court executes its decree by following procedure laid in Civil Procedure Code including Order XXI CPC. In addition thereto, to enforce such orders even Regulations regarding adjudication of execution petition have been notified by the Haryana Real Estate Regulatory Authority, Gurugram (adjudication of execution petition) Regulations, 2019, wherein procedure is laid as to how an application for execution is to be moved and such Regulations have been framed by the Authority while exercising powers conferred under Section 40(2) of the Act, 2016 read with Rule 27 of the Rules, 2017. In nutshell, Section 40 of the Act, 2016, speaks about execution of the orders and Rule 27 of the Rules, 2017 read with Regulations, 2019, prescribe the mechanism to get the execution affected by the quoted Authority in the manner a Civil Court does. It is apt to observe here that the provisions of Rule 27 of the Rules, 2017, which contain the mechanism provided under the Act to execute the orders, since are legally intact till date, every quoted Authority working in the State of Haryana under the umbrella of the Act, 2016 read with Rules, 2017, is legally bound to follow the prescribed procedure laid therein, more so when our Hon'ble High Court in CWP no.7738 of 2022 case titled as **"M/s International Land Developers Private Limited v/s Aditi Chauhan and Others"**, decided on **17.08.2022 (DB)**, did not disturb the legal sanctity of the Rule 27 of the Rules, 2017 and even our Hon'ble Appellate

32
P. Lalit
12/05/2026

Tribunal at Chandigarh, in Appeal no.523 of 2022 case titled as "M/s Raheja Developers Limited v/s Bharat B. Luthra and Anr.", decided on 23.02.2023, has approved of adopting the procedure laid in Civil Procedure Code to execute its order by the Adjudicating officer particularly provisions laid under Order XXI of the CPC.

Before proceeding further, it is apt to note here that social welfare legislation should be interpreted broadly and liberally to advance the remedy and suppress the mischief the statute seeks the cure. In other words, the interpretation must strengthen constitutional values, not dilute them. To hold so, this Forum has taken strength from the law reported in (1978) 2 SCC 213, (2008) 9 SCC 527, (1995) 2 SCC 273. In addition thereto Hon'ble apex Court in "Balram Kumawat v/s Union of India" (AIR 2003 SC 3268) has held that "*the clauses of a statute should be construed with reference to the context vis-a-vis the other provisions so as to make a consistent enactment of the whole nature.*" The rule of 'Ex visceribus actus' should be resorted to in a situation of this nature.' Similarly, it is also necessary to note that no court of law can give its own interpretation to a statutory provision different from its real intent. To hold so, this Forum has taken strength from the law laid down by Hon'ble apex Court in "State of Jharkhand v/s Govind Singh", (2005) 10 SCC 437, wherein it is held that "the courts must interpret the law as it stands and not legislate under the garb of interpretation." Further, there can't be denial to a

legal proposition that statutory provision has to be read and interpreted in the manner that there is harmonious construction of the same. In other words, a single provision of law can't be interpreted to establish mutually inter contradictory version. On this count, reference may be made to the principle of Harmonious construction/interpretation of statute; as per which construction by which harmony or oneness amongst various provisions of an enactment is arrived at must be adopted. To hold so, this Forum has taken strength from the law laid down by Hon'ble apex Court in **Commissioner of Income Tax v/s M/s Hindustan Bulk Carriers (2000)** wherein it is held that "*courts should make every effort to avoid conflicts between seemingly conflicting provisions and should attempt to interpret these provisions in a way that harmonises them. A provision in one section of the law should not be used to nullify a provision found in another section unless the court is unable to find a way to reconcile their differences despite diligent effort. In cases where it's impossible to completely reconcile inconsistencies between provisions, the courts must interpret them in a manner that gives effect to both provisions to the greatest extent possible. Courts must consider that an interpretation rendering one provision redundant or useless goes against the essence of harmonious construction and should be avoided.*". The combined readings of these citations lead to one conclusion that the basic legislative intent and purpose of Section 40 of the Act, 2016, read with Rule 27 of the Rules, 2017, can't be ignored by

holding that in execution, the provisions of Civil Procedure Code would not be applicable in the State of Haryana.

Though, this Forum is aware of the law laid by Hon'ble Karnataka High Court in Writ Petition 17821 of 2025 case titled as "Mantri Developers Pvt. Ltd. v/s Snil Pathayam Vecil & Ors.", date of decision 31.10.2025, wherein it is held that "provisions of Civil Procedure Code are not applicable in respect of proceedings conducted under the Act, 2016 read with the Rules, 2017. But, having due regards to the same, the said judgment cannot be having binding effect on the judicial or quasi-judicial Forums working in the States of Punjab & Haryana, wherein dictate of Hon'ble Punjab & Haryana High Court at Chandigarh or of Hon'ble apex Court, if any, on the said subject would prevail. To hold so, this Forum has taken strength from the law laid down in "East India Commercial Co. Ltd. v/s The Collector of Customs, Calcutta", 1962 AIR 1893, "Dharmendra M. Jani v/s Union of India & Ors.", Writ Petition no.2031 of 2018, date of decision 16.06.2021, "CIT v/s Thane Electricity Supply Limited", (1994) 206 ITR 727, "Jasandeep Kaur and others v/s Union of India and others". CWP no.24261-2023 (O&M), date of decision 06.05.2025 by Hon'ble Punjab and Haryana High Court. Otherwise also, there is contrary findings of Hon'ble High Court of Judicature at Bombay in Writ Petition no.3565 of 2025 dated 06.10.2025 case titled as "Mayur L. Desai v/s State of Maharashtra & Anr.", to the findings given by Hon'ble

35
Pratibha
12/05/2026

Karnataka High Court in Mantri's case (supra). In the quoted case, Hon'ble Division Bench of Bombay High Court has approved of compliance of provisions of Civil Procedure Code in the matter of execution of orders of Authorities of RERA.


In fact, legally it would be correct to infer that as long as our Hon'ble High Court or Hon'ble apex Court has not held on judicial side that the Adjudicating Officer or the Authority or the Appellate Tribunal while working in the States of Haryana or Punjab cannot resort to the provisions of Civil Procedure Code while executing its order, these Forums are bound to follow these provisions in its letter and spirit, even if Hon'ble High Courts of other States have taken a different view.

In view of the foregoing discussion, it is concluded that the provisions of Civil Procedure Code are applicable in the execution matters covered under the Act, 2016, meaning thereby, the point raised by learned counsel for the judgment debtor is meritless. In fact, if the Authorities under the Act, 2016, are not vested with the powers to execute its orders as per the provisions provided in the Civil Procedure Code, the executing Forums will become toothless adversely affecting the satisfaction of its order within reasonable time as mere sending of Recovery Certificate to District Collectors for recovery, as arrears of land revenue is practically a futile exercise and remains so for years to come at

the cost of the decree holder's interest, which is not the intent and purpose of the Act, 2016.


9. Consequently, it is concluded that since, the order dated 02.05.2023 is void ab initio, thus nullity, it cannot be executed. Accordingly, the present execution stands **disposed of** being unexecutable. Since, the execution as such found unexecutable, there remains nothing on the part of this Forum to consider and decide the pending applications of the decree holder moved under while Order XXI Rule 41 and Order XXI Rule 37 CPC, as these have become infructuous.

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


MAJOR PHALIT SHARMA
ADSJ (Retd.)
ADJUDICATING OFFICER
12.05.2026

Akhil Bhardwaj
Law Associate

Note: This order contains 37 pages and all the pages have been checked and signed by me.


MAJOR PHALIT SHARMA
ADSJ (Retd.)
ADJUDICATING OFFICER
12.05.2026