

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

CM No. 1381 of 2026 in/and

Appeal No.329 of 2025

Date of Decision: April 16,2026

Aarcity Builders Pvt. Ltd., through its authorized representative Jaikisan Verma, Unit NO. 552, 5th Floor, Terrace Tower-B, D-4, 5, 6, Krishna Apra Business Square, Netaji Subhash Place, New Delhi-110034

Appellant.

Versus

Surender Kumar son of Shri Ram Kumar, resident of House NO. 128, Prem Nagar, Hisar, Haryana

Respondent

CORAM:

**Justice Rajan Gupta
Dinesh Singh Chauhan**

**Chairman
Member (Technical)**

Present: Mr. Vijay Partap Singh, Advocate for the appellant.

ORDER:

RAJAN GUPTA, CHAIRMAN

In the present appeal, challenge has been made to order dated 23.01.2025 passed by the Authority¹, whereby the appellant-promoter has been directed to pay upfront delay interest to the respondent-allottee, as calculated in para No.28 of the order towards delay already caused in handing over the possession within 90 days from the date of order. The promoter has also been directed to offer possession to the respondent-allottee along with statement of account including therein the delay interest calculated in the order within 45 days of uploading of the order. The respondent-allottee was held liable

¹ Haryana Real Estate Regulatory Authority, Panchkula

to pay balance consideration amount to the appellant-promoter at the time of possession

2. As per report from the Registry, the appellant-promoter was required to make pre-deposit Rs.20,73,619/-. The appellant filed CM No. 1381 of 2026 seeking waiver of pre-deposit.

3. Vide order dated 15.12.2025, report of OSD (J) was sought. As per report of OSD (J), the appellant-promoter is required to deposit Rs.20,73,619/- as pre-deposit.

4. Counsel for the appellant-promoter contended that the Registry calculated the amount of pre-deposit without considering the outstanding amount to be paid by the allottee as directed in the impugned order. He further contended that an amount of Rs.18,89,262/- is still pending towards the respondent-allottee after deducting the amount of compensation on account of delay possession.

5. An appeal, which is not accompanied with pre-deposit deserves outright dismissal. Challenge on the ground that the order is unsustainable, can only be considered if the appeal is found to be maintainable.

6. In view of law laid down in **M/s Newtech Promoters and Developers Pvt. Ltd. v. State of UP, 2022(1) RCR (Civil) 367**, it is not possible to entertain an appeal which is not accompanied by requisite pre-deposit. There is no provision for waiver or exemption of pre-deposit. Relevant paragraphs of the judgment are reproduced hereunder for ready reference:

“122. It may straightaway be noticed that Section 43(5) of the Act envisages the filing of an appeal before the appellate tribunal against the order of an authority or the adjudicating officer by any person aggrieved and where the promoter intends to appeal against an order of authority or adjudicating officer against imposition of penalty, the promoter has to deposit at least 30 per cent of the penalty amount or such higher amount as may be directed by the appellate tribunal. Where the appeal is against any other order which involves the return of the amount to the allottee, the promoter is under obligation to deposit with the appellate tribunal the total amount to be paid to the allottee, which includes interest and compensation imposed on him, if any, or with both, as the case may be, before the appeal is to be instituted.”

123. The plea advanced by the learned counsel for the appellants is that substantive right of appeal against an order of authority/adjudicating officer cannot remain dependent on fulfilment of pre-deposit which is otherwise onerous on the builders alone and only the builders/promoters who are in appeal are required to make the pre-deposit to get the appeal entertained by the Appellate Tribunal is discriminatory amongst the stakeholders as defined under the provisions of the Act.

xxxx xxxx

125. The submission in the first blush appears to be attractive but is not sustainable in law for the reason that a perusal of scheme of the Act makes it clear that the limited rights and duties are provided on the shoulders of the allottees under Section 19 of the Act at a given time, several onerous duties and obligations have been imposed on the promoters i.e. registration, duties of promoters, obligations of promoters, adherence to sanctioned plans, insurance of real estate, payment of penalty, interest and

compensation, etc. under Chapters III and VIII of the Act 2016. This classification between consumers and promoters is based upon the intelligible differentia between the rights, duties and obligations cast upon the allottees/home buyers and the promoters and is in furtherance of the object and purpose of the Act to protect the interest of the consumers vis-a-viz., the promoters in the real estate sector. The promoters and allottees are distinctly identifiable, separate class of persons having been differently and separately dealt with under the various provisions of the Act.”

7. In view of the fact that there is deficit of amount of Rs.20,73,619/-, the averment made in the application that there is no defect in complying with proviso to Section 43(5) of the Act is untenable. Same is hereby dismissed. Consequently, the appeal would not survive and would meet the same fate. Ordered accordingly. However, the appellant-promoter would be at liberty to seek revival of the appeal in case it makes good the deficit in the pre-deposit within one month from today.

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

9. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

April 16,2026
mk