BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

CM No.602 of 2026 in/and

Appeal No. 1605 of 2025

Date of Decision: July 28,2026

Haryana Shehri Vikas Pradhikaran through its Estate Officer, Sector-9/9A, Bahadurgarh, District: Jhajjar-125507 (Haryana)

Appellant

Versus

Smt. Sushila Devi R/o V.P.O.-Silana, District: Sonipat, Haryana-131408

Respondent

CORAM:

Justice Rajan Gupta **Chairman**
Dr. Virender Parshad **Member (Judicial)**

Present: Mr. Jatin Kaushal, Advocate for
Mr. Arvind Seth, Advocate for the appellant.

O R D E R:

RAJAN GUPTA, CHAIRMAN

In the accompanying appeal, challenge has been made to order dated 21.11.2025, passed by the Authority[1], operative part whereof reads as under:

"I. DIRECTIONS OF THE AUTHORITY

43. The Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

[1] Haryana Real Estate Regulatory Authority, Panchkula

i. As per para 40 of this order, the amount of delay interest for delay caused in delivery of possession admissible to the complainant works out to Rs.9,16,906/-. Therefore, the respondent is directed to pay upfront delay interest of Rs.9,16,906/- to the complainant towards delay already caused in handing over the possession within 90 days from the date of passing of this order. Interest shall be paid up till the time period under section 2(za) i.e. actual realization of amount.

*44. **Disposed of.** File be consigned to record room after uploading on the website of the Authority."*

2. As per report from the Registry, out of the requisite pre-deposit i.e., Rs.9,16,906/- calculated by it, the appellant-promoter deposited Rs.5,21,228/-. The appellant filed CM No. 602 of 2026 for clarification of awarded amount of Rs.9,16,906/-.

3. Vide order dated 06.04.2026, report of OSD (J) was sought. As per report of OSD (J), the appellant-promoter is required to deposit Rs.9,16,906/- and there is deficit of Rs. 3,95,678/-.

4. In the application, it is stated that the appellant-promoter had already credited Rs.4,07,125/- in allottee's plot account in PPM (Plot & Property Management System) as per its policy. As and when the allottee will apply on line along with requisite documents, the same will be refunded to her. It has, thus, made compliance of Section 43(5) of the Act[2].

5. We have heard learned counsel for the appellant.

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[2] The Real Estate (Regulation & Development) Act, 2016

6. The promoter is posing a challenge to the order, whereby it has been directed to pay Rs.9,16,906/- to the respondent-allottee as delay possession charges. While computing the pre-deposit, the Registry cannot be expected to embark on cumbersome exercise of calculation on the basis of stand taken by the appellant in the appeal. The Registry has, thus, committed no error in calculating pre-deposit.

7. 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.

8. 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, 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."

9. Thus, we find no substance in the application. The issue raised in the application will ultimately depend on the final

outcome of the appeal. However, interest of the allottee has to be secured in view of judgment in ***M/s Newtech Promoters and Developers Pvt. Ltd's case*** (supra). For this reason, pre-deposit has to be made as calculated by the Registry. It also needs to be mentioned here that pre-deposit is kept in approved bank in fixed deposit; draws admissible rate of interest and is disbursed as per entitlement of the parties on final decision of the appeal. Thus, no prejudice is likely to be caused to either party.

10. In view of above, it is evident that there is no scope for hearing the appeal on merits, as the same is not maintainable due to lack of pre-deposit. The application is, thus, dismissed. Consequently, the appeal is also dismissed. 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.

11. The amount of pre-deposit, which is deficit in nature, cannot be retained by the Tribunal. The same, along with interest accrued thereon, be remitted to the Authority for disbursement to the parties, according to their entitlement, subject to tax liability, if any, after expiry of one month.

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

13. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

July 28,2026
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