HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Execution No. 2227 of 2023

In

Complaint No. 909 of 2022

Rakesh Kumar Tiwari ....Decree Holder

VERSUS

Jotindra Steel & Tubes Ltd. ....Judgment Debtor

Date of Hearing: 24.08.2026

Hearing: 13th

Present: Adv. NK Sharma, counsel for the decree holder through VC.

Adv. Amrit Singh, counsel for the judgment debtor through VC.

ORDER **(NADIM AKHTAR-MEMBER)**

1. **Background of the case is as follows:**

   a. The present petition has been filed for execution of the order dated 14.02.2026 passed by the Authority in Complaint No. 909 of 2022. The relevant part of the said order is reproduced below:

      (i) Respondent is directed to refund the entire amount of ₹3,62,342/- to the complainant.

      (ii) A period of 90 days is given to the respondent promoter to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017, failing which legal consequences would follow.

   b. Thereafter, the matter was listed for hearing on various dates. For the first time, on 11.07.2024, learned counsel for the judgment debtor apprised the Authority that the Judgment debtor had filed an Appeal No. 408 of 2024 before the Hon'ble Appellate Tribunal against the aforesaid order. Consequently, the matter was thereafter listed before the Authority on 10.09.2024, 26.11.2024, 03.03.2025 and 01.07.2025, awaiting the outcome of the proceedings before the Hon'ble Appellate Tribunal.

   c. On 13.10.2025, it was apprised to the Authority that the Hon'ble Appellate Tribunal, vide order dated 11.09.2025, had granted an opportunity to both the parties to explore the possibility of an amicable settlement. In view thereof, the Authority also granted an opportunity to the parties to settle the matter amicably and, vide order dated 13.10.2025, directed the Judgment debtor to send an email to the Decree holder specifying the date, time and venue for a visit by the Decree holder for the purpose of settlement talks.

d. Thereafter, the matter was listed before the Authority on 12.01.2026, when it came to the knowledge of the Authority that the Hon'ble Appellate Tribunal, vide order dated 03.11.2025, had specifically clarified that for the purpose of exploring the possibility of an amicable settlement, the matter would be supervised by the learned Adjudicating Officer. Accordingly, both parties were directed to appear before the learned Adjudicating Officer on 20.01.2026 for the purpose of mediation.

e. Accordingly, the matter was listed for hearing before the learned Adjudicating Officer on 20.01.2026, when learned counsel for the Judgment Debtor sought an adjournment to explore the possibility of an amicable settlement between the parties. In view of the request, the matter was adjourned to 29.01.2026. On 29.01.2026, the matter was again taken up before the learned Adjudicating Officer. On the said date, learned counsel for the Judgment Debtor made a statement before the learned Adjudicating Officer that the matter had been amicably settled between the parties. In view of the said statement, the mediation proceedings were disposed of and the matter was returned to this Authority. The relevant portion of the order dated 29.01.2026 passed by the learned Adjudicating Officer is reproduced below:

> *4. Since, as per the statement given by the ld. Counsel for appellant at bar, the appellant, there remains no reason to proceed further in present mediation proceedings. Consequently, the present mediation proceedings stands disposed of as the issues between parties apparently stand resolved*
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> *4. Intimation to this effect be sent to the Hon'ble Appellate Tribunal immediately to be placed on record tomorrow i.e., 30.01.2026 which is the date already fixed there, for hearing, for its kind information and necessary action please.*
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> *5. Let, the file transferred by the Ld. Bench to this office of the execution, be returned back to the concerned Bench, with a request that in future, if any matter is sent to this office for mediation/conciliation, the file as such be not transferred as the same is against the legal procedure. It is only the parties sent for mediation or conciliation during pendency and not the file as the file has to be disposed of by the Bench concerned.*
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> *6. A copy of this order under covering letter be sent to Hon'ble Appellate Tribunal and to the concerned bench of the Hon'ble Authority, for information and necessary action please.*
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> *7. Legally, the papers related to mediation are supposed to be filed separately in the record room but since the file as such in this case has inadvertently been transferred to mediator, let these papers be lagged with the file concerned for record purposes, before transferring it back.*

8. Let, the order be communicated to both the parties through email.

In view of the observations recorded in paragraph 5 and 6 of the order dated 29.01.2026 passed by the Adjudicating Officer in Appeal No. 408 of 2024, which was referred for mediation by the Hon'ble Appellate Tribunal.

The matter had been referred for mediation pursuant to proceedings pending before the Hon'ble Appellate Tribunal. As no formally notified Standard Operating Procedure presently governs the manner in which such mediation references are to be operationalised within the Authority, the file was transmitted as an administrative measure so that the complete particulars of the parties/record are readily available so that the reference made by the Hon'ble Appellate Tribunal could be effectively acted upon.

The movement of the file in such circumstance was an internal administrative arrangement and did not involve any alteration of jurisdiction or adjudicatory control. The authority to regulate listing, custody and procedural handling of matters continued to vest in the concerned Bench.

The observations made by the Adjudicating Officer of the Authority in paragraph 5, touching upon the manner in which files are to be transmitted by the Bench, are therefore viewed as procedural suggestions. Questions relating to institutional procedure and internal administrative arrangements are appropriately to be settled at the level of the Authority/ Bench, particularly in the absence of a notified SOP.

Secondly, in the process of mediation, the jurisdiction to pass final order (based upon the report of mediation) lies with the adjudicatory authority (Appellate Tribunal/Authority) and the mediator has no role to play in the same. The mediator is only to assist the parties in arriving at the mutually accepted settlement. The domain of the mediator is only to prepare the report mentioning about the success/failure of the same. In view of the same, the observations made in the capacity of an Adjudicating Officer of the Authority and not that of a mediator in shape of an "Order" is hardly of any relevance to this bench.

The present situation underscores the desirability of formulating an appropriate procedural framework for handling mediation references, so that uniformity and clarity in institutional functioning are ensured.

f. The matter was thereafter again listed before the Authority on 16.02.2026, when it was recorded that the dispute between the parties had been settled before the learned Adjudicating Officer and the proceedings before Hon'ble Appellate Tribunal had accordingly been withdrawn. It was further submitted that, since the proceedings before the Hon'ble Appellate Tribunal had also been withdrawn and the dispute stood settled, the matter had been transferred back from the learned Adjudicating Officer to this Authority, having originally been referred only for the purpose of mediation.

g. On the said date, learned counsel for the Judgment debtor sought one further adjournment on the ground that, for the purpose of satisfying the decree, the Judgment debtor was required to ascertain from the Hon'ble Appellate Tribunal the status of the decretal amount deposited pursuant to the statutory pre-deposit and the date on which the said amount would be released. It was submitted that, upon release of the said amount, the Judgment debtor intended to satisfy the decree. Accordingly, the matter was listed for hearing on 23.03.2026 for the purpose of satisfaction of the decree.

h. On 23.03.2026, the matter was further adjourned to 13.07.2022, awaiting the status of decretal amount. Finally, on 13.07.2026, the matter was taken up, when, considering the request for release of the statutory pre-deposit amount in favour of the complainant, the Authority directed the complainant to file duly filled Proforma P-1 along with the requisite documents, so as to facilitate release of the statutory pre-deposit amount into his bank account.

2. Firstly, the Authority deems it appropriate to reproduce the relevant portion of the final order dated 03.02.2026 passed by the Hon'ble Appellate Tribunal in Appeal No. 408 of 2024, whereby the appeal preferred by the appellant-promoter was dismissed as withdrawn. The relevant portion of the said order is reproduced below:

> *"2. During the course of hearing of the appeal, parties on their consent were given liberty to explore the amicable settlement vide order dated 11.09.2025. They were, thus, asked to appear before the Adjudicating Officer at Panchkula. It appears that deliberations between the parties were held before the said officer. Mediation has proved successful and it was decided that the appellant would withdraw the appeal on humanitarian grounds as the allottee was facing medical issues. Operative part of the order passed by the Adjudicating Officer at Panchkula, wherein, settlement has been recorded, reads as under:*
>
> > *3.Heard.*
> >
> > *4.Since, as per the statement given by the ld. Counsel for appellant at bar, the appeal is to be withdrawn and challenged order is to be complied with by the appellant, there remains no reason to proceed further in present mediation proceedings. Consequently, the present mediation proceedings stands disposed of as the issues between parties apparently stand resolved.*
> >
> > *4.Intimation to this effect be sent to the Hon'ble Appellate Tribunal immediately to be placed on record tomorrow i.e. 30.01.2026 which is the date already fixed there, for hearing, for its kind information and necessary action please."*
>
> *3. In view of above, learned counsel for the appellant submits that she may be allowed to withdraw the appeal.*

4. Dismissed as withdrawn.
5. The amount of pre-deposit made by the appellant-promoter along with each appeal in terms of proviso to Section 43(5) of the Act, along with interest accrued thereon, be remitted to the Authority for disbursement to the parties after conclusion of the proceedings, as per their entitlement, subject to tax liability, if any.
6. Copy of this order be sent to the parties/their counsel and the Authority."

Perusal of this order, makes it evident that the appeal filed by the appellant-promoter was dismissed as withdrawn pursuant to the settlement arrived at between the parties during the mediation proceedings.

3. The principal question which arises for consideration is whether, in view of the subsequent settlement arrived at between the parties and the consequential order passed by the Hon'ble Appellate Tribunal, any amount remains due and payable by the Judgment debtor towards satisfaction of the order dated 14.02.2026.

4. Vide order dated 14.02.2026, the Authority had directed the Judgment debtor to refund an amount of ₹3,62,342/- to the complainant. It is not in dispute that the Judgment debtor had deposited the said amount before the Hon'ble Appellate Tribunal as statutory pre-deposit in Appeal No. 408 of 2024 preferred against the aforesaid order.

5. During the pendency of the appeal, the parties were granted an opportunity to explore an amicable settlement and the matter was accordingly referred for mediation before the learned Adjudicating

Officer at Panchkula. As recorded by the Hon'ble Appellate Tribunal in its order dated 03.02.2026, the mediation proved successful and the appellant agreed to withdraw the appeal and comply with the order under challenge. Consequently, the appeal was dismissed as withdrawn.

6. While disposing of the appeal vide order dated 03.02.2026, the Hon'ble Appellate Tribunal further directed that the amount of statutory pre-deposit made by the appellant-promoter, along with the interest accrued thereon, be remitted to the Authority for disbursement to the parties after conclusion of the proceedings, as per their entitlement.

7. Pursuant to the aforesaid direction, the decree holder was directed to file duly filled Proforma P-1 along with the requisite documents to facilitate disbursement of the amount in his bank account. In compliance thereof, the decree holder filed an application dated 04.08.2026 along with duly filled Performa P-1 and a cancelled cheque. Upon receipt of the requisite documents, the process for disbursement of the amount was initiated. Accordingly, the statutory pre-deposit of ₹3,62,342/-, along with accrued interest of ₹35,898/-, amounting to a total sum of **₹3,98,240/-**, received by the Authority from the Hon'ble Appellate Tribunal for disbursement to the Decree Holder, was duly remitted to the bank account of the Decree Holder on 20.08.2026, after deduction of TDS of ₹3,590/-. Accordingly, a net amount of **₹3,94,650/-** was disbursed to the Decree Holder. Thus, the entire principal amount of ₹3,62,342/- directed

to be refunded to the decree holder vide order dated 14.02.2026 has already been received by the Decree holder, along with the accrued interest on the statutory pre-deposit. Accordingly, the monetary relief granted under the order under execution stands duly satisfied.

8. The aforesaid subsequent development has a direct and material bearing upon the present execution proceedings. The purpose of execution is to secure satisfaction of the executable direction contained in the order. Once the amount forming the subject matter of the execution has actually been received by the decree holder, the question of directing the judgment debtor to make a fresh payment of the same amount does not arise.

9. In the present case, the amount of ₹3,62,342/- is not merely an amount which was deposited as security or which continues to remain with the appellate forum. The said amount was deposited as statutory pre-deposit during the pendency of the appeal and pursuant to the order of the Hon'ble Appellate Tribunal, the same along with accrued interest has subsequently been remitted and paid to the decree holder. The decretal amount has, therefore, already been received by the person in whose favour the refund was directed.

10. It is also significant that the payment has occurred pursuant to the subsequent course of proceedings in which the parties had arrived at an amicable settlement before the learned Adjudicating Officer. The said

settlement formed the basis for withdrawal of the appeal and was duly taken note of by the Hon'ble Appellate Tribunal while dismissing the appeal as withdrawn. The consequential direction regarding remittance of the pre-deposit and accrued interest was also issued by the Hon'ble Appellate Tribunal in the same proceedings.

11. In these circumstances, the Authority, while exercising execution jurisdiction, is required to take into consideration the subsequent events which have resulted in actual satisfaction of the monetary component of the order under execution. Taking such subsequent events into account does not amount to reviewing, modifying or varying the original order; rather, it is necessary to determine whether anything remains to be executed thereunder.

12. The Authority is also conscious that the settlement between the parties was arrived at before the learned Adjudicating Officer and that the appeal was withdrawn pursuant thereto. The Authority does not consider it appropriate, in the present execution proceedings, to reopen or independently adjudicate upon the terms of the settlement. The settlement has already been acted upon in the appellate proceedings and has culminated in the withdrawal of the appeal. The limited issue before this Authority is whether the order under execution has been satisfied?

13. On the facts available on record, the answer is in the affirmative. The principal amount of ₹3,62,342/- directed to be refunded under the order

dated 14.02.2026 has already been received by the decree holder. In addition thereto, an amount of ₹35,898/- towards interest accrued on the statutory pre-deposit has also been received by the decree holder. Thus, an aggregate amount of **₹3,94,650/-** has already been paid to the decree holder pursuant to the subsequent proceedings before the Hon'ble Appellate Tribunal.

14. Permitting the present execution proceedings to continue for recovery of the same principal amount, despite its having already been received by the Decree holder, would serve no lawful purpose and would result in duplication of recovery. Execution proceedings cannot be permitted to become a mechanism for recovering an amount which has already been paid towards satisfaction of the very obligation sought to be enforced.

15. It is further clarified that the Authority is not treating the interest amount of ₹35,898/- as an additional liability independently adjudicated or imposed upon the Judgment debtor under the order dated 14.02.2026. The said amount represents the interest accrued on the statutory pre-deposit and has been remitted along with the principal amount pursuant to the specific directions of the Hon'ble Appellate Tribunal. The Authority is merely taking note of the actual amount received by the decree holder while determining the question of satisfaction of the execution proceedings.

16. The Authority, therefore, finds that the monetary relief granted under the order dated 14.02.2026, to the extent of ₹3,62,342/-, stands satisfied by actual receipt of the said amount by the Decree holder. No further amount towards the said principal decretal amount remains recoverable from the Judgment debtor.

17. In view of the aforesaid facts and circumstances, the Authority is of the considered view that no further execution or recovery action is warranted in the present matter. The execution proceedings are accordingly **disposed of as satisfied**, the decree holder having already received the total amount of ₹3,94,650/-.

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

Let a copy of this order be placed on record and forwarded to the Adjudicating Officer for information.

NADIM AKHTAR
[MEMBER]