

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.482 of 2022 (O&M)

Date of Decision: 09.06.2026

State of Haryana through the Director, Town and Country Planning Department, Haryana Chandigarh office address at Nagar Yojna Bhawan, Plot No.3, Sector 18, Madhya Marg, Chandigarh.

...Appellant

Versus

1. Haryana Real Estate Regulatory Authority, Mini Secretariat, New Parking Building, 2nd and 3rd Floor, Sector 1, Panchkula.
2. M/s. Ferrous Infrastructure Pvt. Ltd. having registered office at Plot No.34, Sector 56, Opposite Scottish International School Gurugram.

...Respondents

CORAM:

Justice Rajan Gupta
Shri Dinesh Singh Chauhan

Chairman
Member (Technical)

Present: Mr. Lal Chand, ADA,
for the appellant.

None for the respondents.

O R D E R:

Rajan Gupta, Chairman (Oral):

Pursuant to order dated 21.04.2026, OSD(J) has submitted his report.

Challenge in the present appeal has been made to order dated 10.01.2022 passed by the Executive Director, HRERA¹, Panchkula. Operative part thereof reads as under:

“At present both Town and Country Planning Department as well as promoters are clearly defaulting in discharging their respective obligations. Authority has

¹ Haryana Real Estate Regulatory Authority, Gurugram

already stated its position that after creation of substantial third party rights, projects effectively belong to allottees as per provisions of RERA. Projects have to be handed over to association of allottees after completion. Entire project along with its maintenance and common area has to be transferred to the association of allottees.

Authority proposes to register this project for facilitating sale of remaining inventory subject to condition that entire amount to be received from future allottees as well as from existing allottees will be deposited in a dedicated bank account which can be utilized only for payment of government dues and for completing development works. No money at all can be withdrawn by promoters for any other purpose. The receipt of such amount as well as its dispersal to carrying out development activities and for payment of Government dues will be supervised by Authority itself by appropriate means. Authority would consider appointing a Chartered Accountant to oversee receipt and utilization of such amounts. The Town & country Planning Department may submit their objections, if any to this course of action proposed to be adopted.

vi) For consideration of the obligations of the promoters for registration, they must pay up front entire applicable registration fees immediately.

vii) If aforesaid directions are not accepted by department or the promoters, Authority would consider exploring possibility of handing over the project to association of the allottees for completion at their own level.

7. Adjourned to 21.02.2022.

True copy

*Executive Director,
HRERA, Panchkula”*

2. Notice of the appeal was issued to the Authority. On the last date of hearing, its Law Associate appeared and filed a short reply. Same has been perused.

3. Mr. Lal Chand, ADA, who represents the DTCP, Haryana has posed a challenge to the order on the plea that the Authority has no jurisdiction whatsoever to issue directions to the State Government. In support of his contentions, he has referred to Sections 36 and 37 of the RERA Act. Same are reproduced hereunder for ready reference:

“36. Power to issue interim orders.—Where during an inquiry, the Authority is satisfied that an act in contravention of this Act, or the rules and regulations made thereunder, has been committed and continues to be committed or that such act is about to be committed, the Authority may, by order, restrain any promoter, allottee or real estate agent from carrying on such act until the conclusion of such inquiry or until further orders, without giving notice to such party, where the Authority deems it necessary.

37. Powers of Authority to issue directions.—The Authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary and such directions shall be binding on all concerned.”

4. As per him, perusal of the aforesaid provision would show that same have been incorporated in the Act for promoters, allottees and real estate agents and not for the government. However, by virtue of the impugned order, the Authority has directed that the promoters would be entitled to deposit EDC as per the bilateral agreement executed with the developers, which shall be monitored by a Chartered Accountant. As per Mr. Lal Chand, in such eventuality, the promoter who was granted licence

vide letter dated 01.08.2007. DTCP, Haryana would be constrained to consider the application for renewal of the licence despite the fact that there is restraint on the remission of the EDC to the Government Exchequer as same would be deposited "under protest". As per him, no such power is vested in the Authority to pass such orders.

5. In the reply submitted by the Authority no clear answer is forthcoming nor it is represented by a counsel.

5. On due consideration of the matter, we find substance in the plea of State of Haryana and feel that the entire matter needs to be reconsidered as the impugned order does not contain any reference to the statutory provision or a precedent.

6. In view of above, appeal is allowed and the impugned order is hereby set aside. The matter is remanded to the Authority below for decision afresh after affording opportunity of hearing to the parties.

7. Parties are directed to appear before HRERA, Gurugram on 13.07.2026.

8. Copy of this order be sent to the parties/their counsel and the Secretary, HRERA, Gurugram.

9. File be consigned to the records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)
(through VC)

09.06.2026
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