

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No. 813 of 2026

Date of Decision: October 07,2026

M/s Sarv Realtors Pvt. Ltd., 1114, 11th Floor, Hemkunt Chambers, 89, Nehru Place, New Delhi-110019

Appellant.

Versus

1. Sh. Ajay Jalai S/o Sh. M. K. Jalai
2. Mrs. Priyanka Jalai W/o Sh. Ajay Jalali
Both R/o 194, Pocket-E, Mayur Vihar, Phase-2, Delhi-110091

Respondents

CORAM:

Justice Rajan Gupta
Dr. Virender Parshad

Chairman
Member (Judicial)

Present: Mr. Harsh Goyal, Advocate for the appellants.

ORDER:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 15.04.2026, whereby the Authority¹ has ordered for issuance of recovery certificate to the District Collector, Gurugram for effecting the recovery of decretal amount.

2. As per report from the Registry, the appellant was required to make pre-deposit of Rs.1,78,75,171/-

3. Learned counsel for the appellant contended that the order under challenge is only with regard to issuance of recovery certificate. The question of making pre-deposit while challenging such an order would not arise.

¹ Haryana Real Estate Regulatory Authority, Gurugram

4. We have heard learned counsel for the appellant and given careful thought to the facts of the case.

5. It is evident from the record that the impugned order originates from order dated 07.04.2025 in Complaint No. 1372 of 2024, filed by the respondents, whereby the Authority directed the appellant-promoter to refund the amount received by it from the respondents along with interest @ 11.10% p.a. as prescribed under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017 from the date of each payment till the actual date of refund of the deposited amount. The said order has attained finality as none of the parties has challenged the same any further. The promoter is posing a challenge to the order, whereby the Authority has directed to issue recovery certificate to the District Collector, Gurugram for effecting recovery of the decretal amount. Delayed possession charges would be payable as order of the Authority remained in operation during that period. Pre-deposit has been calculated by the Registry accordingly.

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, 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 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 same is hereby dismissed with no order as to costs.

8. Consequently, the accompanying applications are also dismissed.

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

10. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dr. Virender Parshad
Member (Judicial)

October07,2026
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