

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of Decision: October 01,2026

**(1) CM No. 23 of 2026 in/and
Appeal No. 1235 of 2025**

Eminence Township (India) Pvt. Ltd. (formerly known as M/s KPS Colonizers Private Limited), having its office at Sector Road, Village Bajghera, Sector 112, Gurgaon, Haryana

Appellant.

Versus

1. Altaf Ahmed Lal
2. Renu Bansal Lal W/o Altaf Ahmed Lal
Both R/o 24, Jeelana Abad, Peerbagh, Srinagar-190014

Respondents

**(2) CM No. 21 of 2026 in/and
Appeal No. 1236 of 2025**

Eminence Township (India) Pvt. Ltd. (formerly known as M/s KPS Colonizers Private Limited), having its office at Sector Road, Village Bajghera, Sector 112, Gurgaon, Haryana

Appellant.

Versus

Sheja Ehtesham R/o 13, West Avenue, I.I.T. Campus, Hauz Khas, New Delhi-110016

Respondent

CORAM:

**Justice Rajan Gupta
Dinesh Singh Chauhan**

**Chairman
Member (Technical)**

Present: Mr. Sourav Thakur, Advocate for the appellant.

ORDER:

RAJAN GUPTA, CHAIRMAN

This order shall dispose of above-mentioned two appeals, as common questions of law and facts are involved therein. However, the facts have been extracted from Appeal No. 1235 of 2025.

2. Present appeal is directed against order dated 21.07.2025, whereby the Authority¹ has ordered for issuance of recovery certificate to the District Collector, Gurugram for effecting the recovery of decretal amount within 15 days.

3. As per report from the Registry, the appellant was required to make pre-deposit of Rs.37,73,549/-.

4. The appellant moved an application (CM No. 23 of 2026) seeking waiver from pre-deposit required to be made along with appeal in view of proviso to Section 43(5) of the Act².

5. Vide order dated 02.04.2026, report of OSD(J) was sought. As per his report, the appellant is required to deposit an amount of Rs.37,73,549/- towards pre-deposit.

6. 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.

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

8. It is evident from the record that the impugned order originates from order dated 26.03.2019 in Complaint No. 1218 of 2018, filed by the respondents, whereby the Authority directed the appellant-promoter to pay interest @ 10.75% for every month of delay from the due date of possession i.e. 01.12.2017 till offer of possession to the respondent-allottees. The said order has attained finality as none of the parties has

¹ Haryana Real Estate Regulatory Authority, Gurugram

² The Real Estate (Regulation and Development) Act, 2016

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.

9. 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.”

10. In view of the above, it is evident that there is no scope for hearing the appeals on merits, as the same are not maintainable due to lack of pre-deposit. The same are hereby dismissed with no order as to costs.

11. Consequently, the accompanying applications are also dismissed.

CM No. 23 of 2026 in/and
Appeal No. 1235 of 2025 and connected appeal

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

13. Files be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

October 01, 2026
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