

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

CM No. 18 of 2026 in/and

Appeal No.641 of 2025

Date of Decision: October 09,2026

BPTP Limited, OT-14, 3rd Floor, Next Door, Parklands, Sector-76,
Faridabad, Haryana-121004

Appellant

Versus

1. Astha Bhatia Reddy
2. Sudheer Ponnathota,
Both R/o Plot No. 6A, Sector 23, Flat No. 113, Viswaas Apartments,
Dwarka

Respondents

CORAM:

**Justice Rajan Gupta
Dinesh Singh Chauhan**

**Chairman
Member (Technical)**

Present: Mr. Hemant Saini, Advocate with
Ms. Neha, Advocate for the appellant.

ORDER:

RAJAN GUPTA, CHAIRMAN

In the accompanying appeal, challenge has been made to order dated 25.04.2025, passed by the Authority¹, operative part whereof reads as under:

“H. Directions of the Authority:

37. Hence, the authority hereby passes this order and issue the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

¹ Haryana Real Estate Regulatory Authority, Gurugram

- i. The respondent is directed to pay delayed possession charges at the prescribed rate of interest @11.10% p.a. for every month of delay from the due date of possession i.e. 17.12.2016 till valid offer of possession plus two months after obtaining OC from the competent authority or actual handing over of the unit, whichever is earlier, as per section 18(1) of the Act of 2016 read with under Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017. The said amount shall be payable after adjusting the pre-EMI amounts already paid by the respondent to the complainant.*
- ii. The arrears of such interest accrued from 17.12.2016 till the date of order by the authority shall be paid by the promoter to the allottee(s) within a period of 90 days from date of this order as per rule 16(2) of the rules.*
- iii. The respondent/promoter shall hand over the physical possession of the allotted unit and execute conveyance deed in favour of the complainant in terms of section 17(1) of the Act of 2016 on payment of stamp duty and registration charges as applicable.*
- iv. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e. 11.10% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottees in case of default i.e., the delayed possession charges as per section 2(za) of the Act.*
- v. The respondent is also directed not to charge anything which is not part of builder buyer's agreement.*
- vi. That the Hon'ble Supreme Court vide judgment dated 14.12.2020 in civil appeal no. 3864-3889/202 whereby the Hon'ble Court had upheld the order dated 03.01.2020 passed by NCDRC, which lays in unequivocal terms that no holding charges are payable by the allottee to the developer.*

38. This decision shall mutatis mutandis apply to cases mentioned in para 2 of this order wherein details of paid-up amount is mentioned in each of the complaints.

39. Complaint as well as applications, if any stands disposed of accordingly.

40. File be consigned to registry.

2. As per report from the Registry, the appellant-promoter is required to deposit Rs.95,29,444/- towards pre-deposit. It deposited Rs.54,21,059/- and there is deficit of Rs.41,08,385/-.

3. The appellant filed an application (CM No. 18 of 2026) giving explanation for calculations of pre-deposit as per mandate of proviso to Section 43(5) of the Act². The plea taken by the appellant-promoter is that as per the impugned order, the outstanding dues directed to be paid by the respondent-allottees to the promoter has not been taken into consideration by the Registry while calculating the pre-deposit and thus, the appellant-promoter is not required to make pre-deposit.

4. Vide order dated 06.08.2026, report of OSD (J) was sought. As per his report, there is still deficit of Rs.41,08,385/-.

5. 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:

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

"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, if any, 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."

6. 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 allottees 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 and 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.

7. 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.

8. The amount of pre-deposit made by the appellant-promoter, along with interest accrued thereon, be remitted to the Authority for disbursement to the appellant-promoter, subject to tax liability, if any.

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

Dinesh Singh Chauhan
Member (Technical)

October 09,2026/mk