BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

CM No. 9384 of 2026 in/and

Appeal No. 1006 of 2026

Date of Decision: November 16,2026

Ashiana Dwellings Pvt. Ltd., a Company registered under the Companies Act, 2013 having its registered office at: 5F, Everest, 46/C, Chowringhee Road, Kolkata, West Bengal-700071

Appellant

Versus

1. Parul Thakran W/o Arvind Bhardwaj,

2. Arvind Bhardwaj S/o Late Chandan Singh Bhardwaj,

Both R/o T3-512, Ashiana Mulberry Phase-1, Sector-2, Sohna, Gurugram

Respondents

CORAM:

Justice Rajan Gupta **Chairman**
Dinesh Singh Chauhan **Member (Technical)**

Present: Mr. Keshav Saini, Advocate,
Ms. Nimitha Pathak, Advocate and
Mr. Vardhani Gupta, Advocate for the appellant.

O R D E R:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 14.08.2026 passed by the Authority[1]. Operative part thereof reads as under:

"G. Directions of the Authority

32. Hence, the authority hereby passes this order and issues the following directions under Section 37

[1] Haryana Real Estate Regulatory Authority, Gurugram

of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

i. The respondent is directed to pay delayed possession charges at the prescribed rate of interest i.e. 10.80% p.a. for every month of delay on the amount paid by the complainant to the respondent from the due date of possession 27.07.2019 till offer of possession plus two months as per proviso to Section 18(1) of the Act read with Rule 15 of the Rules. The due date of possession and the date of entitlement are detailed in table given in para 31 of this order. The respondent is directed to pay arrears of interest accrued so far within 90- days from the date this order as per Rule 16(2) of the Rules.

ii. The complainants are directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.

iii. The rate of interest chargeable from the allottee by the promoter, in case of default shall be charged at the prescribed rate i.e. 10.80% by the respondent/promoter which is the same rate of interest which the promoter shall be liable to pay the allottee, in case of default i.e. the delayed possession charges as per Section 2(za) of the Act.

33. This decision shall mutatis mutandis apply to cases mentioned in para 3 of this order.

34. The complaints stand disposed of.

35. Files be consigned to registry."

2. The appeal is accompanied by an application seeking waiver/exemption of pre-deposit as per Section 43(5) of the Act[2].

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

3. Counsel for the appellant-promoter primarily contended that the claim towards delay possession charges had already been settled between the parties; the agreed compensation had been paid/adjusted and possession had been handed over to the respondent-allottees. He further contended that the Authority has failed to appreciate the binding effect of the settlement. In view of this, it is unable to make pre-deposit.

4. As per report from the Registry, the appellant-promoter is required to deposit Rs.29,11,950/-

5. We have heard learned counsel for the appellant.

6. The appellant is posing a challenge to the order, whereby it has been directed to pay delay possession charges along with interest at the rate of 10.80% per annum to the allottees from due date of possession i.e. 27.07.2019 till offer of possession plus two months. Pre-deposit has been calculated by the Registry accordingly. It needs to be kept in mind that the party, who is aggrieved by the order of the Authority, may file appeal against such order. In case, the appeal is filed by the promoter, it has to make pre-deposit.

7. 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 the 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, 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.

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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."

8. Similar view has been expressed by Hon'ble Supreme Court in SLP (Civil) No. 24606 of 2026-***M/s Parthivi Construction Pvt. Ltd. and others v. Shri Bhuneshwar Prasad Verma and another,*** decided on 22.09.2026.

9. 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 application is, thus, dismissed.

10. Consequently, the appeal is also dismissed.

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

12. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

November 16,2026
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