

Emaar MGF Land Ltd.
Vs.
Sunita
CM No. 62 of 2021
In
Appeal No. 579 of 2019

Present: Sh. Shekhar Verma, Advocate Ld. counsel for the appellant/applicant.

This application has been filed for recalling of the order dated 07.11.2019 vide which the appeal filed by the appellant bearing no. 579 of 2019 was dismissed by this Tribunal for non-compliance of the mandatory provisions of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016,

Heard on the application.

Ld. Counsel for the appellant/applicant contended that now the appellant/promoter is ready to deposit the requisite amount. The same amount may be accepted and the appeal may be heard on merit.

We have duly considered the aforesaid plea raised by the ld. Counsel for the appellant. The appeal filed by the appellant was dismissed by this Tribunal vide order dated 07.11.2019 as the appellant has not complied with the mandatory provisions of proviso to Section 43(5) of the Act in spite of sufficient opportunity. Now, after more than one year, this application has been moved for seeking permission to deposit the amount and to recall the order dated 07.11.2019 passed by this Tribunal.

As per Section 44(1) of the Act, the order dated 07.11.2019 passed by this Tribunal was appealable. The appellant was well within its right to assail the said order by filing of the appeal against the dismissal order dated 07.11.2019 to the Hon'ble High Court but the appellant has not availed the legal remedy available to him. The application moved by the appellant also does not seem to be bona-fide. The order dismissing the appeal was passed by this Tribunal on 07.11.2019 and this application has been moved for recalling the order after more than one year and three months. It shows that the appellant

just want to prolong the matter and to deprive of the allottees of the fruits of the order passed by the Ld. Authority. Ld. Counsel for the appellant could not pointed out any provisions in the Act which authorised this Tribunal to recall the order of the dismissal of the appeal in such eventuality. Thus, we do not find any substance in the present application. So, the same is hereby dismissed.

The paper be attached on the main appeal filed.

Justice Darshan Singh (Retd.)
Chairman,
Haryana Real Estate Appellate Tribunal,
Chandigarh

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

25.02.2021
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