

M/s Orris Infrastructure Pvt. Ltd.

Vs.

Sunil Jain & Anr.

Appeal No.6 of 2021

Present: Shri Shubham Bhardwaj, Advocate, learned Counsel for the appellant.
Shri Sandeep Sharma, Advocate, ld. counsel for the respondents.

[The aforesaid presence is being recorded through video conferencing]

The appellant has not deposited the requisite amount with this Tribunal to comply with the mandatory provisions of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act'). Along with the appeal, the appellant had moved an application with the prayer that the interest/assured return paid by the appellant/promoter to the respondents/allottees may be taken into account for the purpose of compliance of proviso to Section 43(5) of the Act, but the said plea of the appellant was declined by this Tribunal vide order dated 17.09.2021 and the appellant was given time to deposit the amount of Rs.15,03,973/- on or before 23.10.2021 and the case was listed for today i.e. 25.10.2021 to see the compliance of the aforesaid order.

2. As per the report of the office, the appellant has not deposited any amount with this Tribunal nor any stay order has been received from the Hon'ble High Court or any other Higher Forum.

3. It is settled principle of law that the provisions of proviso to Section 43(5) of the Act are mandatory. It is a condition precedent for entertainment of the appeal filed by the promoter to deposit the requisite amount. In the instant case, the appellant/promoter has not complied with the mandatory provisions of proviso to Section 43(5) of the Act

inspite of sufficient opportunity. Consequently, the present appeal cannot be entertained and the same is hereby dismissed.

4. Copy of this order be sent to all the concerned.
5. File be consigned to the record.

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

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

October 25, 2021
CL