



**HARERA**  
GURUGRAM

**HARYANA REAL ESTATE REGULATORY AUTHORITY  
GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

### PROCEEDINGS OF THE DAY

Day and Date	Tuesday and 14.12.2021
Complaint No.	E/659/2020/225/2018/2019 Case titled Greenopolis Welfare Association VS Orris Infrastructure Pvt. Ltd. & Another
Complainant	Greenopolis Welfare Association
Represented through	Mr Venket Rao, Adv
Respondent	Orris Infrastructure Pvt. Ltd. & Another
Respondent Represented through	Mr. Sanjeev Anand, Adv Akshay Thakur, Advocates.
Last date of hearing	
Proceeding Recorded by	S.L. Chanana

### PROCEEDINGS

An application, filed on behalf Delhi Brass and Metal Works Pvt Ltd. has been disposed of vide separate order <sup>today.</sup> of even date.

DH files an application with request to hear arguments on that application <sup>again.</sup> It is submitted by learned counsel for DH that on previous date, when arguments were heard on said application, he was not present. Moreover, previous date i.e. 16.11.2021 was not fixed for arguments on that application.

As per record, Mr. Mayank Grover, Advocate appeared on behalf of DH on 30.11.2021 and sought adjournment stating that main counsel could not come on that date suffering with fever. Request was allowed and the

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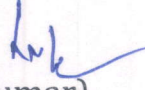
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matter was adjourned to 16.11.2021. None appeared on behalf of DH on that date i.e. 16.11.2021 even if said date was given on request of proxy counsel for DH itself. As none appeared for DH, the petition could have been dismissed for non-prosecution. Despite dismissing the same, the matter was proceeded further. No such request( to advance arguments) was made till today, when matter was fixed for order on aforesaid application <sup>filed</sup> fixed by M/s Delhi Brass and Metal Works Pvt Ltd. Even otherwise, as order has already been passed on that application, there is no reason for re-arguments. Application in this regard is thus dismissed.

<sup>Lol.</sup> Counsel representing JD/Orris Infrastructure Pvt Ltd. is not present and an application has been received seeking adjournment on ground as she(learned counsel) has given birth to a child recently. Request is not opposed by learned counsel for DH. <sup>Allowed,</sup>

To come on 11.02.2022 for further proceedings.

  
(Rajender Kumar)  
Adjudicating Officer  
14.12.2021





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Respondent	Orris Infrastructure Pvt. Ltd. & Another
Respondent Represented through	Mr. Sanjeev Anand Adv for R-2 Mr. Akshay Thakur, Adv <del>R-2</del> ✓
Last date of hearing	
Proceeding Recorded by	S.L. Chanana

### Proceedings

This is a petition seeking execution of order dated 03.10.2019, passed by the Haryana Real Estate Regulatory Authority, Gurugram (in brief 'the Authority'). On request made by the Decree Holders, the Authority, vide order dated 03.10.2019, directed attachment of property No.A-3a, District Centre Phase II, Nehru Place, New Delhi stated to a hotel plot.

Heard on an application filed by M/s Delhi Brass & Metal Works Pvt Ltd. seeking vacation of said order, attaching plot described above. It is submitted by learned counsel for applicants that said plot has been mortgaged with his clients i.e. applicants by its owner i.e. Lavender Infra Projects Pvt Ltd. a private limited company. The Latter had approached the applicants in July/August, 2015 with a prayer for loan facility of Rs.49.50

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016  
Act No. 16 of 2016 Passed by the Parliament

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अंतर्गत गठित प्राधिकरण  
भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16

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crores for construction/development of its projects. Same agreed to provide its property i.e. a hotel plot mentioned above as security for repayment of loan facility. The applicants extended loan facility as sought by said Lavender Infra, at an interest rate of 24% p.a. An equitable mortgage on this property was created in favour of his clients, by depositing original title deed i.e. allotment letter, payments receipts, conveyance deed etc. Apart from the same, an agreement for sale was also executed by M/s Lavender Infra in favour of applicants. Unpaid loan amount was agreed to be treated as sale consideration, paid by the applicants. A separate loan agreement dated 24.08.2015, agreement to sell date 24.08.2015, agreement/affidavits of share-holders of M/s Lavender Infra, were also executed. As M/s Lavender Infra did not repay the loan amount plus interest. His clients i.e. applicants have become owners of said property. Copies of agreement etc have been put on file. Even otherwise, same being mortgagee of said plot, applicants have prior interest than the decree holders.

It is further plea of counsel for applicants that even Haryana Real Estate Appellate Tribunal while hearing an Appeal No.158/2019 relating to the present execution petition, mentioned about encumbrances upon the plot. The relevant para i.e. Para 62 of order is reproduced is here as under:

**"It was further mentioned in affidavit dated 23.01.2019 that they dedicated properties worth more than Rs.200 crores but it is an admitted fact that this arrangement could not mature due to the default of the respondent No.2, as it could not get the consent of the lenders and such properties were under encumbrances....."**





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Learned counsel representing the JD/Respondent No.1 & 2 have objections. According to them, simply on the basis of agreement to sell, the applicants cannot claim to be owners of said plot.

True, it is well settled that an agreement to sell does not create any title till the sale deed etc is executed. In this way, the applicants cannot claim owners of plot mentioned above. The applicants claim<sup>ing</sup> to be mortgagee of said plot having mortgage deed/agreement executed prior to the date when said plot was attached by the Authority to realise the decretal amount.

If all this is true, the applicants have prior interest in said plot. Considering all these facts, I do not find any reason to recall order attaching said properties<sup>in</sup> in realization of decretal amount. However, it is made clear here that the applicants are having prior interest by way of mortgage, the same can realise their amount before the yield of same is used to satisfy the decree under execution. With this observation, applicant<sup>is</sup> is thus dismissed.

To come on 11.02.2022 for further proceedings.

(Rajender Kumar)  
Adjudicating Officer  
14.12.2021