

M/s Raheja Developers Ltd.
Vs.
Gurpreet Kaur Ahuja & Anr.
Appeal No.101 of 2021

Present: Ms. Navneet Kaur, Advocate proxy for Shri Kamaljeet Dahiya, Advocate, ld. Counsel for the appellant.

[Through V.C.]

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'). The application moved by the appellant for waiver of the condition of pre-deposit was dismissed by this Tribunal vide order dated 12.07.2021 and the appellant was given time to deposit the requisite amount on or before 12.08.2021 and the case was listed for 13.08.2021 to see the compliance of the aforesaid order. On that date i.e. 13.08.2021, learned counsel for the appellant had filed an application before this Tribunal for bringing on record the proceedings of the Hon'ble High Court in the appeal filed against the order dated 12.07.2021 passed by this Tribunal. It was stated that the above said appeal was listed before the Hon'ble High Court for 19.08.2021. Accordingly, the case was adjourned to 24.09.2021 for awaiting the order of the Hon'ble High Court.

2. Again on 24.09.2021 learned counsel for the appellant sought adjournment on the ground that the above said appeal was not listed till then and the same was likely to be listed next week. In the interest of justice, the case was adjourned for 29.11.2021 for further appropriate proceedings. But again on 29.11.2021, Shri Kamaljeet Dahiya, Advocate, learned counsel for the appellant sought more time to comply with the order dated 12.07.2021 and the case was adjourned for today i.e. 22.12.2021 for seeing the compliance. Today, as per the report of the office and the fact not disputed by learned proxy counsel for the appellant, no

amount has been so far deposited by the appellant with this Tribunal to comply with the aforesaid provisions. Even the costs to the tune of Rs.10,000/- imposed upon the appellant vide order dated order dated 12.07.2021, have not been deposited by the appellant.

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. The copy of this order be communicated to all the concerned.

5. File be consigned to records.

Inderjeet Mehta
Member (Judicial)
Haryana Real Estate Appellate Tribunal,
Chandigarh
22.12.2021

Anil Kumar Gupta
Member (Technical)
22.12.2021

CL