

**M/s Sepset Properties Pvt. Ltd.**

**Vs.**

**Nidhi Bhattacharya & Anr.**

**Appeal No.252 of 2021**

Present: Shri Pawandeep Singh Talwar, Advocate, Id. Counsel for the appellant.  
Shri Rishabh Jain, Advocate, Id. Counsel for the respondent.

[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 14.10.2021 and the appellant was given time to deposit the requisite amount on or before 11.11.2021 and the case was listed for 12.11.2021 to see the compliance of the aforesaid order. On that date i.e. 12.11.2021, learned counsel for the appellant had sought more time to comply with the order dated 14.10.2021 and the case was adjourned for 03.12.2021. Again, on 03.12.2021, learned proxy counsel for the appellant had sought adjournment on the ground that Shri Pawandeep Singh Talwar, learned arguing counsel in this case was suffering from acute stomach infection and the case was adjourned for today for further appropriate proceedings. But as per the report of the office and the fact not disputed by learned 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 14.10.2021, have not been deposited by the appellant.

2. 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.

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

4. File be consigned to records.

Inderjeet Mehta  
Member (Judicial)  
Haryana Real Estate Appellate Tribunal,  
Chandigarh  
16.12.2021

Anil Kumar Gupta  
Member (Technical)  
16.12.2021

CL