

M/s Assotech Moonshine Urban Developers Pvt. Ltd.

Vs.

Vibha Narula Gupta

Appeal No.450 of 2020

Present: Shri Akshat Mittal, Advocate, Id. 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'). Along with the appeal, the appellant had moved an application for waiver of the condition of pre-deposit but on 22.11.2021 learned counsel for the appellant had stated at bar that the application filed by the appellant for waiver of the condition of pre-deposit may be dismissed as withdrawn and reasonable time was sought to deposit the requisite amount to comply with the provisions of proviso to Section 43(5) of the Act. Accordingly, the above said application of the appellant was dismissed as withdrawn vide order dated 22.11.2021 and the appellant was given time to deposit the requisite amount on or before 15.12.2021 and the case was listed for today i.e. 16.12.2021 for seeing the compliance. 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.

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