

M/s Raheja Developer Limited
Vs.
Rajiv Mohan Gupta

Appeal No.106 of 2021

Present: Shri Kamaljeet Dahiya, Advocate, learned
Counsel for the appellant.

Learned counsel for the appellant states that the appeal filed by the appellant-promoter against the order dated 12.07.2021 has been dismissed as withdrawn from the Hon'ble High Court vide order dated April 20, 2022. He further states that this Tribunal may pass an appropriate order.

2. The appellant-promoter has filed this appeal without any compliance of the proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act'). The appellant had moved an application for waiver of the condition of pre-deposit. The said application was dismissed by this Tribunal vide order dated 12.07.2021 and the appellant was granted time to deposit the requisite amount on or before 12.08.2021. As per the report of the office, no amount has been deposited by the appellant-promoter. Thus, there is non-compliance of Section 43(5) of the Act.

3. It is settled principle of law that the compliance of proviso to Section 43(5) of the Act is a condition precedent for entertainment of the appeal. But, in the instant case the appellant-promoter has not complied with the said proviso inspite of sufficient opportunity. So, 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)

May 16, 2022
CL