

M/s Alpha Corp. Development Pvt. Ltd.
V/s
Krishi Rasayan Exports Pvt. Ltd.
Appeal No. 430/2019

Present: Sh. Harsh Bunker, Advocate, with Ms. Parul Singh, Advocate, ld. counsel for the appellant.

Sh. Gaurav Gupta, Advocate, for Sh. Vikas Deep, Advocate, ld. counsel for the respondent.

Sh. Atul Sharma, Director of the appellant company has come present. He explains that a sum of Rs. 328 has been charged towards interest on the account of EDC payable to the Government as per the policy of the Government. With this clarification, the matter stands clarified.

It is settled principle of law that in order to comply with the provisions of proviso to Section 43(5) of the Real Estate (Regulation & Development) Act, 2016 (hereinafter called the 'Act'), the appellant/promoter is required to deposit the amount as imposed by the ld. Authority in the impugned order.

As per the impugned order there is delay of 551 days in the offer of possession as per the calculations Annexure-I filed with affidavit dated 29.11.2019 and the interest due for delay in delivery of possession comes to Rs. 12,18,885/- whereas the appellant/promoter is to recover a principal amount of Rs. 12,86,952/- besides the interest for delayed payment and other charges. So, the amount payable by the appellant/promoter to the respondent/allottee is less.

Heard on the main appeal.

Ld. counsel for the appellant states that the ld. authority has no jurisdiction to entertain the complaint filed by the respondent/allottee for refund alongwith interest. The said complaint is entertainable only by the Adjudicating Officer.

Let notice of the present appeal be issued to the respondent. Sh. Gaurav Gupta, Advocate has accepted the notice on behalf of the

respondent. Copy of the paper book has already been supplied to the respondent.

Now for arguments, to come up on 21.04.2020.

Justice Darshan Singh (Retd.)
Chairman,
Haryana Real Estate Appellate Tribunal,
Chandigarh
03.03.2020

Inderjeet Mehta
Member (Judicial)
03.03.2020

Anil Kumar Gupta
Member (Technical)
03.03.2020