

Emaar India Ltd.
V/s
Anubhav Guglani

Appeal No. 61 of 2022

Present: Shri Kunal Dawar, Advocate, Ld. counsel for the appellant.

Office report perused.

The appeal be registered.

As per the report of the office, the appellant has deposited a total sum of Rs. 51,85,621/- to comply with the provisions of proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (in short the Act). The said amount is correct as per calculations made by our office. So, the provision of proviso to Section 43 (5) of the Act stands complied with subject to just objections by the respondents.

There is delay of 81 days in filing the present appeal. The appellant has moved an application for condonation of delay.

In view of the reasons mentioned in the application and as per direction given by the Hon'ble Apex Court in Suo Moto Writ Petition (C) No.3 of 2020, the application moved by the appellant for condonation of delay is hereby allowed. The delay in filing the present appeal stands condoned however, subject to just objections by the respondents.

Heard on the main appeal.

Ld. counsel for the appellant inter alia contended the ld. Authority has travelled beyond the complaint. It has touched various issues which were not even the matter in issue in the complaint filed by respondents-allottees. He further contended the some of the issues decided by the ld. Authority with respect to the maintainability of the complaint in connection with registered or un-registered project is contrary to the observations of the Hon'ble Apex Court in **M/s Newtech Promoters and Developers Pvt. Ltd. v. State of UP & others 2021 SCC Online SC 1044**. He further contended that the serious issues regarding refund of amount of GST, the definition of on-going project and other issues are in question.

Let notice of the present appeal be issued to the respondents for 21.07.2022 on filing the copies of paper book and registered cover etc. within three days.

On the request of Ld. counsel for the appellant, it is mentioned that the appellant has deposited the entire amount which has become payable to the respondents-allottees till the date of filing this appeal with this Tribunal and we hope that this fact shall be taken into consideration in a judicious manner by the Ld. Authority.

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

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

10.05.2022
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