



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

PROCEEDINGS OF THE DAY

Day and Date	Thursday and 11.02.2021
Complaint No.	E/2952/2020/2708/2019 Case titled as Deepak Singh Sahni VS Emaar Mgf Land Limited
Complainant	Deepak Singh Sahni
Represented through	Shri Kuldeep Kumar Kohli Advocate
Respondent	Emaar Mgf Land Limited
Respondent Represented through	S/Shri JK Dang & Ishaan Dang Advocates
Last date of hearing	
Proceeding Recorded by	Naresh Kumari

Proceedings

S/Shri JK Dang & Ishaan Dang Advocates have filed power of attorney on behalf of the JD today.

The counsel for the JD has stated at bar that an appeal bearing No. 48/2021 has been filed before the Hon'ble Appellate Tribunal against the orders of the Authority alongwith demand draft No.837062 dated 18.12.2020 amounting to Rs.11,45,157/- and demand draft No.837053 dated 18.12.2020 amounting to Rs.4,90,781/-.

1. Execution application has been filed by the decree holder under Order XXI Rule 11 of the Code of Civil Procedure, 1908 (hereinafter in short as 'Code'). Office report has been obtained and as per this report no stay

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Act No. 16 of 2016 Passed by the Parliament

भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा 20 के अर्तगत गठित प्राधिकरण
भारत की संसद द्वारा पारित 2016 का अधिनियम संख्यांक 16



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order has been received from the Appellate Authority. We have also gone through the execution file and the affidavit of the complainant-decree holder/authorized representative filed therewith.

2. It is sworn in the affidavit that to the knowledge of the complainant-decree holder, the respondent-judgment debtor has not filed any appeal against the order under execution nor does any stay operate in respect of the said order. The period of ninety days from the date of decision was granted to comply the directions and as no appeal has been filed, orders of the Authority have attained finality. The execution application has been filed within a period of 2 years from the date of attaining finality of the order, hence, there is no need of sending notice of the execution application to the respondent-judgment debtor (as per Order XXI Rule 22 of the Code) for compliance of orders of the Authority in the case before hand. It is informed that compliance of orders of Authority has not been done so far.
3. As per the calculation given by the Decree Holder and also as per the office report the total amount to be paid by the judgement Debtor to the Decree Holder as per the direction contained in the decree comes out to Rs. 18,56,138/-.
4. Section 40 of the Real Estate (Regulation and Development) Act, 2016 read with Rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017 provides for enforcement of order, direction or decision of Adjudicating Officer, Authority or Appellate Tribunal. Rule 27 is reproduced below:

"27. Enforcement of order, direction or decision of adjudicating officer, Authority or Appellate Tribunal. Section 40. —

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(11) Every order passed by the adjudicating officer or the Authority or the Appellate Tribunal, as the case may be, under the Act or rules and the regulation made thereunder, shall be enforced by an adjudicating officer of the Authority or Appellate Tribunal in the same manner as if it were a decree or an order made by a civil court in a suit pending therein; and it shall be lawful for the adjudicating officer or the Authority or the Appellate Tribunal, as the case may be, in the event of its inability to execute the order, send such order to the civil court, to execute such order.

(12)

5. Accordingly, the Authority has taken up execution of the order of the Authority in the instant case as per the provisions contained in Part-II titled 'Execution' read with Order XXI of the Code exercising powers of the Civil Court to enforce execution provided in Section 51 of the Code.
6. The Authority has decided to execute decree as per the mode provided in Order XXI Rule 30 of the Code which provides as under:

"30. Decree for payment of money

Every decree for the payment of money, including a decree for the payment of money as the alternative to some other relief, may be executed by the detention in the civil prison of the judgment debtor, or by the attachment and sale of his property, or by both. "

7. The decree holder has made a written application under Order XXI Rule 11(2) of the Code. The decree holder has shown his inability to produce list of movable and immovable properties for satisfaction of the decree by attachment or by the attachment and sale or by the sale without attachment except the bank account of the judgement debtor.
8. The Authority is informed of the bank account of the judgment debtor as per details given below:

Account No.	Name of account holder	Type of account	Name of Bank	Branch	IFS Code
503011045950			Kotak Mahindra Bank	GF, Ambadeep Building, 14 KG Marg, New Delhi	KKBK0000172



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9. While exercising powers under Order XXI Rule 30 of the Code, the Authority hereby orders attachment of the above said bank account and directs the bank manager to remit the decretal amount in favor of the decree holder by way of producing demand draft before the Authority within 15 days, failing which the bank manager is directed to explain the reasons for non-compliance.
10. In case, the bank account is incorrect or the balance available in the bank account is insufficient to satisfy the decretal amount, the judgment debtor is directed to appear before the Authority to be orally examined as to whether the judgment debtor has any and what other property or means of satisfying the decree and the Authority further orders for attendance and examination of such judgment debtor and for the production of documents in support of such property/means exercising powers under Order XXI Rule 41 of the Code.
11. The Authority further orders that if the decree for payment of money remains unsatisfied for a period of 30 days, the judgment debtor shall file an affidavit stating the particulars of the assets of the judgment debtor.
12. As per provisions of Order XXI Rule 41(3) of the Code it is hereby made clear to the judgment debtor that in case of disobedience of order of the Authority made under Order XXI Rule 41(2) of the Code the Authority may direct that the person disobeying the order be detained in the civil prison for a term not exceeding three months unless before the expiry of such terms the Authority directs his release.



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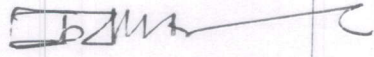
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13. In case the decree is not satisfied before the next date of hearing and also the particulars of the assets of the judgment debtor are not produced within the time specified above, the judgment debtor shall be present before the Authority on the next date of hearing to show cause why he should not be committed to civil prison.
14. It is further clarified that if appearance is not made in obedience to this notice, the Authority shall if the decree holder so requires issue warrant for the arrest of the judgement debtor in exercise of powers in Order XXI Rule 37(2) of the Code.
15. The Authority further directs the attachment of movable property/vehicle of the judgement debtor under Order XXI Rule 43 of the Code and directs the attaching officer of the Authority to effect attachment by actual seizure of the vehicle/movable property and the officer shall keep the property in his own custody or in the custody of his sub-ordinate. The attaching officer is also authorized to take police help in seizure of the property. The compliance shall be submitted before the Authority within 15 days.
16. The Registry is directed to do the needful immediately.
17. The matter to come up on **26.03.2021**.


Samir Kumar
(Member)


Dr. K.K. Khandelwal
(Chairman)
11.02.2021

CC To: -

- i. The Commissioner of Police, Gurugram/ Station House Officer of the concerned police station.



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- ii. Bank manager of the concerned branch.
- iii. Judgement debtor.
- iv. Attaching Officer (Roshan Singh, L.E.)

for information and necessary action. The commissioner of police and/or the SHO of the area shall provide police aid to the attaching officer in case the attaching officer approaches them for seeking the police aid.