

PROCEEDINGS OF THE DAY		65
Day and Date	Thursday and 03.02.2022	
Complaint No.	CR/3189/2021 Case titled as M/s Padampur Nirman Pvt Ltd V/s M/s Emaar MGF Land limited	
Complainant	M/s Padampur Nirman Pvt Ltd	
Represented through	Shri Ravinder Singh Advocate	
Respondent	M/s Emaar MGF Land limited	
Respondent Represented through	Ms. Khyati Dhupar, S/Shri J.K. Dang and Ashish Joshi Advocates, Shri Divyam Agarwal- AR	
Last date of hearing	21.01.2022	
Proceeding Recorded by	H R Mehta and Naresh Kumari	
Proceedings through V.C. The present complaint has been received on 13.08.2021 and the reply was received on 05.10.2021. The counsel for the respondent has moved an application for keeping the proceedings in abeyance in compliance of order of High Court in CWP no. 19958 of 2017 titled as "Gurgaon Citizens Council and Anr. Versus State of Haryana & ors." and in appeal no. 35 of 2021 titled as Emaar India Limited Versus Simmi Sikka & Anr., the appeal is pending before Hon'ble High court. The counsel for the respondent has placed on record various orders dated 14.12.2021 passed by the Hon'ble Appellate Tribunal in appeal no. 102 of 2020, 103 of 2020, 105 of 2020, 106 of 2020 wherein Hon'ble Appellate Tribunal has passed following orders- "<i>Ld. Counsels for both the parties are seeking adjournment as the matter is still to be adjudicated by the Hon'ble High Court regarding some of the points involved in the present appeal. Now the case stands adjourned to 14th February, 2022 for further proceedings.</i>" Arguments were heard from both the sides.		



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/3189/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

The application has been moved in all the cases which are listed today from serial No.54 to 84. Only in respect of item mentioned at serial No.85 and 86 applications have not been moved. The issues raised in the application stand already settled by the Hon'ble Supreme Court of India in civil appeal titled as **M/s. Newtech Promoters & Developers Pvt. Ltd. v. State of UP [civil appeal nos. 6745-6749 of 2021]**.

The counsels for the respondent were specifically asked whether there is any stay order granted by any court in respect of matters listed from serial Nos.54 to 86. The counsels for the respondent confirmed that there is no stay granted by any court in respect of matters listed from serial Nos.54 to 86.

The counsel in item from serial No.62, 63, 64, 65, 69 and 80, Mr. J.K. Dang Advocate submitted written arguments on behalf of respondent which were taken on record. The main plea taken by the counsel is regarding filing of application for part CC on 30.01.2014. The fate of application is not known and the counsel for the respondent submitted that the fate of application is known to them, and it is pending. None of the counsel for the respondent was able to apprise the Authority whether there was any response from the DTCP on the application for part CC filed by them. Whether there was any follow up from their side to pursue the application for part CC. No averment has been made categorically whether the application for part CC was complete. This application for part CC is pending with the DTCP from the last more than 8 years. Without any documentary proof or some other evidence, it cannot be concluded that application was complete and if it was incomplete then it is no application in the eyes of law and the very basis of taking plea of rule 2 (o) of Haryana Rules, 2017 goes. The Hon'ble Supreme Court of India judgment as quoted above has categorically decided that only those projects are exempted from registration for which completion certificate has been obtained and fact of the matter is that for this project completion certificate has still not been obtained. The attention of the counsels of the respondent was drawn towards para 3 of their application dated 30.01.2014 for issuing part completion certificate wherein it has been admitted that services are still incomplete. The para-No.3 of the application is reproduced below for ready reference as under:

"We would like to inform you that the execution of services as per proposal dated 13.09.2009 is in full swing. Further to inform you that the application to renew the license has already been submitted on 18.04.2013".



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम
CR/3/89/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

The counsel for the respondent also in response to above drew attention of the authority towards para 4 of the application. From the application it is quite clear that the promoter has also done certain unauthorized construction on 194 plots and has also sought regularization of the same which very clearly indicate towards the conduct of the promoter.

The application filed by the respondent is not maintainable and is liable to be rejected on the basis of order dated 11.11.2021 passed by the Hon'ble Supreme Court in civil appeal titled as **M/s. Newtech Promoters & Developers Pvt. Ltd. v. State of UP [civil appeal nos. 6745-6749 of 2021]**. The relevant para of the said order is reproduced below for ready reference:

"54. From the scheme of the Act 2016, its application is retroactive in character and it can safely be observed that the projects already completed or to which the completion certificate has been granted are not under its fold and therefore, vested or accrued rights, if any, in no manner are affected..."

In light of the above, the authority decides to further proceed with the complaint as such.

Matter to come up on 10.02.2022 for further proceedings.

V.I -
Vijay Kumar Goyal
Member

Dr. KK Khandelwal
Chairman
03.02.2022