

PROCEEDINGS OF THE DAY	
Day and Date	Wednesday 24.03.2021
Complaint No.	E/395/2021/1612/2019 Case titled as Amrender Singh VS Ramprastha Promoters and Developers Private Limited
Complainant	Amrender Singh
Represented through	Shri Nilotpall Shyam and Ms. Shivali
Respondent	Ramprastha Promoters and Developers Private Limited
Respondent Represented through	Shri Dheeraj Kapoor
Last date of hearing	First hearing
Proceeding Recorded by	Naresh Kumari HR Mehta
Proceedings 1. A complaint bearing No.1612 of 2019 was filed by the complainant Amrender Singh and the Authority passed the following order in favour of the complainant/deGREE holder and against the respondent/JD in exercise of the powers conferred upon it under section 37 of the Real Estate (Regulation and Development) Act, 2016: - (i) The respondent is directed to pay the interest at the prescribed rate i.e. 10.20% per annum for every month of delay on the amount paid by the complainant from due date of possession i.e. 31.12.2012 till the offer of possession.	



(ii) Complainant is directed to pay outstanding dues, if any, after adjustment of interest for the delayed period.

(iii) The arrears of interest accrued so far shall be paid to the complainant within 90 days from the date of this order and thereafter monthly payment of interest till offer of possession shall be paid before 10th of subsequent month.

2. This order is not complied with as stated in the execution application.

3. Execution application has been filed. Office report has been obtained and as per this report no stay order has been received from the appellate authority. The Authority has also gone through the execution file and the affidavit of the complainant-decree holder/authorized representative filed therewith.

4. 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.

5. 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 (order 21 rule 22 CPC which *inter alia* provides that where an application for execution is *made more than two* years after the date of decree, the court executing the decree shall issue a notice to the person against him execution is applied for requiring him to show cause, order date to be fixed, why the decree should not be executed against him. Thus, where an execution application has been filed within a period of two years after the date of the decree, no such notice is required to be sent to the judgment-debtor.

6. 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. Section 40(2) of the 2016, Act reads as under: -



“40. Recovery of interest or penalty or compensation and enforcement or order, etc.-

(2) If any adjudicating officer or the Regulatory Authority or the Appellate Tribunal, as the case may be, issues any order or directs any person to do any act, or refrain from doing any act, which it is empowered to do under this Act or the rules or regulations made thereunder, then in case of failure by any person to comply with such order or direction, the same shall be enforced, in such manner as may be prescribed.”

7. The Rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017 provides that every order passed by the Authority under the Real Estate (Regulation and Development) Act, 2016 or rules and regulations made thereunder shall be enforced by the authority in the same manner as if it were a decree or order made by a Civil Court in a suit pending therein;

8. Accordingly, execution of order of the authority in the following matter is being taken up as per provisions of Code of Civil Procedure: -

i)	Name of the complainant/decreed holder	Amrender Singh
ii)	Name of the respondent/judgment order	Ramprastha Promoters and Developers Pvt. Ltd.
iii)	Complaint No.	1612 of 2019
iv)	Date of decision	11.12.2019
v)	Date of Filing of Execution Application	28.01.2021
vi)	Execution Application No.	395 of 2021

9. The decree is for recovery of delayed possession charges from the promoter-JD. Decree may be satisfied by either of the modes as given in sub clause (a) or (b) or exercising power under (c), the authority directs the JD to credit the decretal amount in the ledger account of the unit of the allottee. In case the due amount against the allottee is more than decretal amount or if due amount against the allottee is less than the decretal amount then due amount be adjusted, and rest of the money be paid as per provisions of clause (a) or (b). In case decretal amount or part thereof is credited in the ledger account of the allottee, statement of account be sent

within a week and in case of dispute about account then decree holder shall be at liberty to approach the authority by filing a separate complaint/application. Hence, it is a money decree. Order XXI rule 1 CPC deals with modes of paying money under decree. It reads as under: -

"1. Modes of paying money under decree

(1) All money, payable under a decree shall be paid as follows, namely: -

- (a) by deposit into the court whose duty it is to execute the decree, or sent to that court by postal money order or through a bank; or
- (b) Out of court, to the decree-holder by postal money order or through a bank, or by any other mode wherein payment is evidenced in writing; or
- (c) *Otherwise, as the court, which made the decree, directs".*

Rule 30 of order 21 deals with payment of money. It reads 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".

10. Thus, a joint reading of order 21 rule 1 (c) and order 21 rule 30 CPC makes it abundantly clear that the movable/immovable property of the JD can also be attached by the Authority while executing the decree for recovery of delay possession charges from the promoter/JD.

11. As per the calculation sheet submitted by the decree holder and also as per the office report, total amount is to be paid by the JD to the decree holder as per the directions contained in the decree comes out to be Rs. 33,80,503/- till 31.01.2021

12. The Bank Manager is directed to attach the following bank account of the JD to the extent of decretal amount of Rs. 33,80,503/-



Sr. No.	Name of the Bank	Account No.	IFSC Code No.	Amount
1.	Manager, Corporation Bank, Sector-31 Gurugram.	077801601000548	CORP0000778	Rs.33,80,503/-

13. Therefore, if the decree is not satisfied being insufficient amount or no amount in the bank account or wrong bank account, the Authority will proceed against the JD under the provisions of **order 21 rule 41 of CPC** which reads as under: -

“41. Examination of judgment-debtor as to his property

(1) Where a decree is for the payment of money the decree holder may apply to the court for an order that—

- (a) the judgment-debtor, or
- (b) where the judgment-debtor is a corporation, any officer thereof, or
- (c) any other person,

be orally examined as to whether any or what debts are owing to the judgment-debtor and whether the judgment-debtor has any and what other property or means of satisfying the decree; and the court may make an order for the attendance and examination of such judgment-debtor, or officer or other person, and for the production of any books or documents.

(2) Where a decree for the payment of money has remained unsatisfied for a period of thirty days, the court may, on the application of the decree-holder and without prejudice to its power under sub-rule (1), by order require the judgment/debtor or where the judgment-debtor is a corporation, any officer thereof, to make an affidavit stating the particulars of the assets of the judgment-debtor.

(3) In case of disobedience of any order made under sub-rule (2), the court making the order, or any court to which the proceedings is transferred, 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 court directs his release.”



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

15. Therefore, in exercise of the powers conferred under 41 (1), (2) CPC, the Authority hereby directs that a notice for attendance be issued to the Judgment Debtor for the next date for his oral examination with regard to his assets and liabilities and whether he has any property or means of satisfying the decree and also to file an affidavit stating the particulars of the assets of the judgement debtor if the decree is not satisfied before next date of hearing.

Matter to come up on 28.04.2021.


Samir Kumar
(Member)


Vijay Kumar Goyal
(Member)


Dr. K.K. Khandelwal
(Chairman)
24.03.2021