



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	Tuesday and 10.10.2023
Complaint No.	E/6580/2019 Case titled Ashok Nagpal VS M/s Emaar Mgf Land Limited
Complainant	Ashok Nagpal
Represented through	Mr Sanjeev Sharma Adv
Respondent	Emaar Mgf Land Limited
Respondent Represented through	Mr Ishaan Dang Adv
Last date of hearing	
Proceeding Recorded by	Jyoti Malik

Proceedings

This is a petition seeking execution of order passed by the Authority dated 16.01.2019. It is pointed out that JD had preferred an appeal against this order, which has been decided by the Appellate Tribunal on 06.01.2023. A copy of order is on the record.

Learned counsel for JD submitted his calculation. According to him, although delayed compensation amount comes to Rs. 18,35,756/- but there are outstanding dues against the DH, amounting Rs. 13,84,774/- including DPC and CAM charges.

Admittedly, physical possession of subject unit has not been handed over by JD till now. Learned counsel for latter explained that the authority in

h.b.
A.O.

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016

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



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

its order, which is under execution has already mentioned that his client i.e. respondent was liable to pay DPC till offer of the possession, which was 30.01.2018. Actual/physical possession could not be handed over, as allottee/DH failed to pay outstanding dues.

While disposing of appeal filed by present JD, Hon'ble Appellate Tribunal directed that amount of Rs. 18,60,286/- as deposited by Appellant-promoter in compliance of provisions of Section 43(5) of Act of 2016 along with interest accrued thereon, be sent to the Authority for disbursement to respondent-allottee. A sum of Rs. 20 lakhs is stated to have already been disbursed to allottee-DH. All this shows ^{that} even after adjusting outstanding dues, JD still had ~~that JD had~~ to pay the amount of DPC to the DH. In such a situation, it was not proper for JD, not to hand over physical possession. Even then, being executing court/Authority this forum (AO) cannot go beyond order/decreed. DH is entitled for DPC till 30.01.2018, as determined by the Authority.

When physical possession of subject unit has not been handed over till now, JD cannot claim maintenance charges.

Let matter be referred to the Accounts Officer to calculate the amount due, in the light of this order. Report be filed till next date.

To come on 08.11.2023 for further proceedings.


(Rajender Kumar)
Adjudicating Officer
10.10.2023