

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

286

**RERA APPL. No.26 of 2019**

Date of Decision: September 11, 2019

Anant Raj Ltd.

.....Appellant(s)

versus

Som Nath Batra and another

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE DR. RAVI RANJAN**

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Present: Mr. Ajiteshwar Singh, Advocate for the appellant.

Mr. Satyam Aneja, Advocate for the respondent.

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**DR. RAVI RANJAN, J. (Oral)**

This appeal has been preferred assailing the order dated 20.08.2019 passed by the Haryana Real Estate Appellate Tribunal, Chandigarh.

It appears that there are two parts of the order. First part is with regard to the condonation of delay, which has been allowed and there is no challenge to that part. The main challenge is to the part by which an application moved by the appellant for waiver of the payment of pre-requisite amount for the purpose of filing of appeal.

Learned counsel has submitted that he has already deposited 30% of the entire amount, which has been assessed as interest as well as compensation with the Real Estate Regulation Authority (in short 'RERA'), though the jurisdiction of the RERA authority to take a decision in such matter is under challenge in this appeal.

The request of the appellant was to waive off 70% of the pre-requisite amount and as 30% or pre-requisite amount as per the Proviso of section 43(5) of the RERA act has already been deposited, the appeal should be heard especially, when the proceedings before the RERA authority itself is not

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This issue is no longer *res integra* inasmuch as this Court in RERA Appeal No.12 of 2019 has already taken a decision that provisions under the Proviso of Section 43 sub-Section 5 of the Act is mandatory one as legislature in its wisdom has come up with this stringent provision only to safeguard the interest of the allottees/consumers so that they are not being dragged into unnecessary litigations by the promoters/developers.

In view of the mandatory nature of such statutory provision, the RERA Appeal No.12 of 2019 was dismissed on 05.09.2019 by this Court.

Such being the legal position, learned counsel for the appellant seeks leave to withdraw this appeal with a liberty to deposit the requisite amount before the Appellate Tribunal within a period of 10 days.

Accordingly, this appeal stands dismissed as withdrawn with the aforesaid liberty granted to the appellant. Let him deposit the pre-requisite amount within a period of 10 days from today.

Let a copy of this order be given to learned counsel for the appellant under the signature of the Bench Secretary of this Court.

September 11, 2019  
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[ DR. RAVI RANJAN ]  
JUDGE

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|-----------------------------|-----|
| Whether speaking/reasoned : | Yes |
| Whether Reportable :        | No  |