

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

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**CWP no.9266 of 2022
Date of Decision:04.05.2022**

Fantasy Buildwell Pvt. Ltd.

..... Petitioner

versus

Gaurav Manohar Negi and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. Amandeep Singh Talwar, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

Vide this petition, the petitioner seeks issuance of a writ in the nature of *mandamus* directing respondent no.4 to list its appeal bearing no.H-REAT-299-2022, titled as Fantasy Buildwell Pvt. Ltd. v. Gaurav Manohar Negi and another, and to decide the interim applications filed alongwith.

The petitioner seeks a further direction to respondent no.3 to make a demand draft for an amount of Rs.1,98,48,967/-, i.e. the amount withheld by respondent no.2, in terms of the order dated 03.03.2022, in the name of the Registrar of the Haryana Real Estate Appellate Tribunal, for the purpose of complying with the 'pre-deposit condition' stipulated in Section 43(5) of the Real Estate (Regulation & Development) Act, 2016.

Learned counsel for the petitioner submits that the decretal amount as decided by the execution court vide its order dated 03.03.2022 (copy Annexure P-7), i.e. an amount of Rs.1,98,48,967/-, is only available with the petitioner in its bank Account no.05720330000677, with the HDFC Bank, Vatika Atrium, Sector-53, Golf Course Road, Gurugram-122002, which has been frozen to that extent only, vide the same order, and consequently unless that amount is ordered to be released, even the appeal filed by the petitioner cannot be heard by the appellate authority in terms of Section 43(5) of the aforesaid Act.

Notice of motion is issued only respondents no.3 and 4, with Mr. Ankur Mittal, Advocate, accepting notice at the asking of the court on behalf of the said respondents, i.e. Haryana Real Estate Regulatory Authority, Gurugram, and the Haryana Real Estate Appellate Tribunal.

Upon query to him, he submits that he has taken instructions to the effect that as long as the decretal amount is deposited in the treasury of the Tribunal as a pre-condition to the appeal filed by the petitioner being heard, there would be no issue with regard to de-freezing that amount from the aforesaid account of the petitioner, the intent behind passing the aforesaid order dated 03.03.2022 obviously being to secure the interest of respondents no.1 and 2, i.e. the complainants before the Authority.

That being so, this petition is allowed to the extent that upon the petitioner making an application to the Branch Manager of the aforesaid bank within a period of ten days from today, the Branch would issue a demand draft for an amount of Rs.1,98,48,967/- in favour of the Registrar, Haryana Real Estate Appellate Tribunal immediately thereafter, with obviously the demand draft to be

deposited within one week thereafter with the Tribunal.

Naturally, if the Tribunal in its wisdom, while considering the appeal and any application filed by the petitioner herein or the complainant (respondents no.1 and 2 herein), considers any additional amount to be secured from any account of the petitioner, it would order so.

Thus whether the entire amount lying in the aforesaid account of the petitioner, or any other account, needs to be frozen would be an issue to be decided by the Tribunal in its own wisdom.

Also, whether or not the execution proceedings need to be stayed, would again be looked at by the Tribunal.

In the meanwhile the Branch Manager of the HDFC Bank, Vatika Atrium, Sector-53, Golf Course Road, Gurugram-122002, is directed that unless the Tribunal passes an order directing that A/c no.05720330000677 be defreezed, the entire amount remaining in the said account after a demand draft for an amount of Rs.1,98,48,967/- is issued in favour of the Tribunal, shall not be disbursed in any manner and shall remain frozen with the Bank.

(AMOL RATTAN SINGH)
JUDGE

May 04, 2022
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(LALIT BATRA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes