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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 14106/2024, CM APPL. 59002/2024, CM APPL.
59003/2024 & CM APPL. 59004/2024

SANSADIYA ADHIKARI WELFARE SOCITY (SWAS)

.....Petitioner

Through: Mr. Rakesh Kumar, Mr. Bipin
Kumar, Mr. Suresh Chandra Sharma,
Advocates

versus

**REAL ESTATE REGULATORY AUTHORITY (NCT OF DELHI)
& ORS.**

.....Respondents

Through: Mr. Siddhartha Panda, Mr. Anil
Pandey, Mr. Ritank Kumar,
Advocates for R-1
Mr. Kunwar Chandresh, Ms. Poonam
Prasad, Mr. Munis Nasir, Ms.
Anushka Nigam, Mr. Divyansh
Singh, Advocates for R-2, 3 & 4

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

29.11.2024

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1. In the instant petition, the challenge is laid to order dated 21st November, 2023 passed by the Real Estate Regulatory Authority. It must be noted that there is a statutory remedy available with the Petitioner to file an appeal under Section 43(5) of Real Estate (Regulation and Development) Act, 2016 before the Real Estate Appellate Tribunal.
2. Counsel for the Petitioner submits that for availing the aforementioned



appellate remedy, the Petitioner would have been constrained to make a pre-deposit as mandated under Section 43(5) of the said Act.

3. The Supreme Court in *India Glycols Limited and Another v. Micro and Small Enterprises Facilitation Council, Medchal – Malkajgri and Others*¹ has categorically held that the condition of pre-deposit under a statute cannot be a ground to circumvent the statutory remedy provided under the statute.

4. In light of the above, the Court is not inclined the present petition as there is an efficacious remedy available with the Petitioner to challenge the impugned order. All grounds and contentions urged by the Petitioner can be urged before the REAT.

5. The Court has not commented on the merits of the case. All rights and contentions of the parties are reserved.

6. The present petition is disposed of along with pending applications.

SANJEEV NARULA, J

NOVEMBER 29, 2024/ab

¹ 2023 SCC OnLine SC 1852.