

REAL ESTATE APPELLATE TRIBUNAL
JAIPUR, RAJASTHAN

APPEAL NO.- RAJ-RERA-C-2018-2370

Suresh Chand Jain

Vs.

The Registrar of Real Estate Regulatory Authority, Jaipur

RECORD OF PROCEEDINGS

Date – 14.08.2018

Shri Tanveer Ahmad, Advocate, present on behalf of appellant.

Shri Tej Ram Meena, Advocate present on behalf of JDA Jaipur

Shri Tej Ram Meena, advocate for JDA wants time for compliance of order dated 07.08.2018.

On 7.8.2018, JDA was directed to furnish certain information on oath. All the information are part of record of the JDA, therefore, there is no justification for adjournment.

However, in the interest of justice, one more opportunity is granted subject to payment of cost of Rs.1000/-.

It has been pointed out by Shri Tanveer Ahmed, Advocate that in the appeal, State of Rajasthan through Principal Secretary Urban Development & Housing Department, Government of Rajasthan and Registrar, RERA were also arraigned as party, therefore, notice may also be issued to them.

In the written submissions filed by JDA, a preliminary objection has been raised regarding maintainability of this appeal on the ground that project of JDA under dispute is exempted from registration under the RERA. Reliance was placed on Rule 4 of Rajasthan Real Estate (Regulation and Development) Rules 2017 (hereinafter will be referred as 'Rules of 2017').

Shri Tanveer Ahmed, learned advocate for appellant would argue that Rule 4 of the Rules of 2017 is divergent to Section 3 of the Real Estate (Regulation and Development) Act 2016 (hereinafter will be referred as 'Act of 2016').

In this situation, as per learned advocate for appellant, provision of Act of 2016 shall prevail.

However, Confederation of Real Estate Development Association has made a request to make submission on this point.

This preliminary objection is of general importance. Therefore, it shall be heard prior to the hearing of the appeal on merit. Following point for determination is framed as preliminary point:-

- (1) Whether provisions of Rule 4 of the Rules of 2017 are in conflict and divergent with the provisions of Section 3 of the Act of 2016?
- (2) If yes, whether provisions of Rule 4 of the Rules of 2017 shall prevail over provisions of Section 3 of the Act of 2016.
- (3) Whether Section 84 of the Act of 2016 empowers appropriate government to make such rules divergent to the provision(s) of the Act of 2016?

Issue notice to all concerned together with copy of this order.

All similar matters including appeal No.RAJ-RERA-C-2018-2462 shall also be heard together.

Put up 24.08.2018.

(Umesh Kumar Sharma)
Presiding Officer

