

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 2

EA-1254/2022

ASHOK KUMAR SRIVASTAV

.....Appellant

Versus

AGRANI HOMES PVT LTD

.....Respondent

Counsel for Appellant

Counsel for Respondent

Hon'ble Mr. T.B. Singh, Judicial Member

Hon'ble Mr. K.K. Jain, Technical Member

Case called on.

Counsel Miss Aahuti Agarwal appeared on behalf of appellant/decreed holder and she submitted that instant appeal has been disposed of vide order dated 11.09.2021.

From the order dated 11.09.2021 it appears that the matter was settled between the parties by settlement deed.

Counsel for the appellant/decreed holder further submitted that she wants execution of the order through this Hon'ble Tribunal.

On 29.04.2022, an application was presented before Judicial Member wherein it was mentioned by the Clerk Sri Ashwani Kumar Singh and Sri Ashish Peter that Hon'ble Judicial Member has told them to put up this execution petition before the learned Regulatory Authority, but when that application was presented before Judicial Member, he asked to call Sri Ashwani Kumar Singh and Sri Ashish Peter and also to Joint Registrar of the Tribunal but they did not turn up before Judicial Member till 6:15 p.m. In fact the Appeal No. 933/2020 was never put up before Judicial Member, hence no question arises to tell anyone to put up this case before Regulatory Authority to initiate execution proceeding. The statement of the concerned employees is highly objectionable and this attitude of the employees is not admirable and it must not be repeated in future.

Now the record is before us. The matter has been disposed of vide order dated 11.09.2021 as per mutual settlement between the parties. Counsel for the appellant/decreed holder stated that against the order dated 11.09.2021 no appeal or revision has been filed. Counsel for the appellant/decreed holder further requested that the execution proceedings against the judgment debtor be initiated as early as possible. Section 57 of the Act, 2016 read as under :-

“57. (1) Every order made by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court, and

for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by the court.”

From the above reading there is no doubt that the case be registered as execution case before the Tribunal.

The Registry is directed to register this case as execution case.

Issue notice to the respondent, returnable on 31.05.2022.

The Registry is directed to generate a notice for 31.05.2022 and send it through e-mail to the applicant and his counsel within 48 hours. The applicant after downloading the notice will send it through speed-post to the respondent annexing copy of memo of appeal and its annexures within three days. The applicant will also send the copy of memo of appeal and its annexures, annexing notice issued by the Tribunal through e-mail to the respondent within three days. The applicant will file an affidavit of service annexing copy of postal receipt and transaction report of e-mail sent to the respondent as well as copy of the track record of the postal department regarding service of notice upon the respondent.

Issue notice also through “Dasti”.

Step be taken within 5 days.

List this appeal on **31.05.2022** for further order.

(K.K. Jain)

(T.B. Singh)

Dated: 02.05.2022
PRADEEPKUMAR