

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB  
SCO No. 95-98, Bank Square, P.F.C Building, Sector-17-B, Chandigarh

Subject: -

**Appeal No. 56 of 2022**

M/s Manohar Infrastructure And Constructions Pvt. Ltd.,  
through its authorized representative C/o SCO 139-141,  
Sector-17-C, Chandigarh.

....Appellant

Versus

Mohan Inderjeet Singh, R/o H.No.409, Phase I, SAS Nagar,  
Mohali.

.....Respondent

**Appeal No. 57 of 2022**

M/s Manohar Infrastructure And Constructions Pvt. Ltd.,  
through its authorized representative C/o SCO 139-141,  
Sector-17-C, Chandigarh.

....Appellant

Versus

Mohan Inderjeet Singh, R/o H.No.409, Phase I, SAS Nagar,  
Mohali.

.....Respondent

Memo No. R.E.A.T./2022/ 270

To,

REAL ESTATE REGULATORY AUTHORITY, PUNJAB 1<sup>ST</sup>  
FLOOR, BLOCK B, PLOT NO.3, MADHYA MARG,  
SECTOR-18, CHANDIGARH-160018.

Whereas appeals titled and numbered as above was filed  
before the Real Estate Appellate Tribunal, Punjab. As required by  
Section 44 (4) of the Real Estate (Regulation and Development) Act,  
2016, a certified copy of the order passed in aforesaid appeals is being  
forwarded to you and the same may be uploaded on website.

Given under my hand and the seal of the Hon'ble Tribunal this

07 day of June, 2022.



*Thomson Law*  
REGISTRAR

REAL ESTATE APPELLATE TRIBUNAL, PUNJAB

**BEFORE THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB  
AT CHANDIGARH**

**MEMO OF PARTIES**

M/s Manohar Infrastructure And Constructions Pvt. Ltd.  
through its authorized representative C/O SCO 139-141,  
Sector 17-C, Chandigarh. ...Appellant.

Versus

MOHAN INDERJEET SINGH, R/O H.NO. 409, Phase I, SAS  
Nagar, Mohali.

Chandigarh.

Dated: 13.04.2022.

*Dinesh K. Madra*

(Dinesh K. Madra & Manmohan Sharma)

Advocates.



Appeal No. 57/2022

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through its authorized representative C/O SCO 139-141,  
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**BEFORE THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB**

**AT CHANDIGARH**

**Appeal No. 56 of 2022**

M/s Manohar Infrastructure And Constructions Pvt. Ltd.,  
through its authorized representative C/o SCO 139-141,  
Sector-17-C, Chandigarh.

THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB .....Appellant

Versus

Mohan Inderjeet Singh, R/o H.No.409, Phase I, SAS Nagar,  
Mohali.

at No. 56 of

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**Appeal No. 57 of 2022**

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through its authorized representative C/o SCO 139-141,  
Sector-17-C, Chandigarh.

.....Appellant

Versus

Mohan Inderjeet Singh, R/o H.No.409, Phase I, SAS Nagar,  
Mohali.

at No. 57 of

.....Respondent

\*\*\*

Present: Mr. Dinesh Madra, Advocate with Mr. Manmohan  
Sharma, Advocate for the appellant.



**CORAM:**

**JUSTICE MAHESH GROVER (RETD.), CHAIRMAN**  
**SH. S.K. GARG DISTT. & SESSIONS JUDGE**  
**(RETD.), MEMBER (JUDICIAL)**  
**ER. ASHOK KUMAR GARG, CHIEF ENGINEER**  
**(RETD.), MEMBER (ADMN./ TECH.)**

**JUDGMENT: (JUSTICE MAHESH GROVER (RETD.), CHAIRMAN)**  
**(MAJORITY VIEW)**

1. These appeals are directed against the order dated 23.09.2021, passed by the Adjudicating Officer, Real Estate Regulatory Authority, Punjab.
2. Learned counsel for the appellant at the outset places reliance on the recent judgment of the Hon'ble Supreme Court in "M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT. LTD. VERSUS STATE OF UP & ORS.ETC.", refers to Para 83 and 86, to contend that the Adjudicating Officer would have no jurisdiction to entertain and decide issues relating to refund and interest, even though he is specifically empowered under the Act to deal with the issues of compensation, which has also been approvingly observed by the Hon'ble Supreme Court in "M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT. LTD. VERSUS STATE OF UP & ORS.ETC." He thus prays that in view of the authoritative pronouncement of the Hon'ble Supreme Court, the impugned orders need to be set aside.



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3. The ratio of our order passed in "Appeal No.277 of 2020", would be attracted to the facts of the present case as well.
4. Accordingly, we deem it appropriate to dispose of the appeal with a liberty to the complainants to move an appropriate application in Form M seeking refund & interest and Form N seeking compensation before the competent Authority/ Adjudicating Officer.
5. In case, such applications are moved, the same shall be decided expeditiously by the Competent Authority/ Adjudicating Officer as the case may be in accordance with law.
6. We are of the opinion, that in order to ensure expeditious disposal of the matter, the parties should put in appearance before the Authority/Adjudicating Officer as the case may be, which in turn shall pass appropriate orders either for allocating the proceedings to the appropriate Authority/Adjudicating Officer or for return of the complaint with a permission to the complainant to file appropriate proceedings in Form-M or Form-N as the case may be. The Authority in this manner would have the benefit of providing a time-frame for the entire process as both the parties would be before it and the





**Appeal No. 56 of 2022 & Appeal No. 57 of 2022**

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necessity of affecting service etc. may not arise. The Authority/ Adjudicating Officer shall then proceed to determine the matter in accordance with law.

7. Parties are directed to appear before the Real Estate Regulatory Authority, Punjab on **04.07.2022**. Files be consigned to record room.
8. The amount deposited by the appellant/promoter under Section 43(5) of the Act be disbursed to the appellant/promoter after proper identification and due verification in accordance with law.

*Sd/-*  
**JUSTICE MAHESH GROVER (RETD.)**  
**CHAIRMAN**

*Sd/-*  
**S.K. GARG, D & S. JUDGE (RETD.)**  
**MEMBER (JUDICIAL)**

**May 27, 2022**



**Certified To Be True Copy**  
*Tonamand*  
Registrar  
Real Estate Appellate Tribunal Punjab  
Chandigarh

*07/06/2022*

REAL ESTATE APPELLATE TRIBUNAL PUNJAB AT CHANDIGARH

**Appeal No. 56 of 2022**

Manohar Infrastructure & Const. Pvt. Ltd., through its Managing Director/authorized representative, SCO 139-141, Sector 17-C, Chandigarh.

.....Appellant

Versus

Mohan Inderjeet Singh, H.No. 409, Phase-1, SAS Nagar, Mohali-160055

.....Respondent

**Appeal No. 57 of 2022**

Manohar Infrastructure & Const. Pvt. Ltd., through its Managing Director/authorized representative, SCO 139-141, Sector 17-C, Chandigarh.

.....Appellant

Versus

Mohan Inderjeet Singh, H.No. 409, Phase-1, SAS Nagar, Mohali-160055

.....Respondent

**Present:** Mr. Dinesh Madra, Advocate with Mr. Manmohan Singh, Advocate for the appellant in both the appeals

**QUORUM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN  
SH. S.K. GARG DISTT. & SESSIONS JUDGE (RETD.),  
MEMBER (JUDICIAL)**

**ER. ASHOK KUMAR GARG, CHIEF ENGINEER  
(RETD.), MEMBER (ADMN./TECH.)**

**JUDGMENT: (ER. ASHOK KUMAR GARG, CHIEF ENGINEER  
(RETD.), MEMBER (ADMN./TECH.))**

**(MINORITY VIEW)**





1. By this order, I will dispose off above mentioned two appeals filed against separate orders dated 23.09.2021 passed by Sh. Balbir Singh, Adjudicating Officer (*hereinafter referred to as the Adjudicating Officer or the AO*) of Real Estate Regulatory Authority Punjab (*hereinafter referred to as the Authority*).
2. The said complaints has been accepted by the Adjudicating Officer to the following extent:-

1.	Appeal No.	56/2022	57/2022
2.	Complaint AdC No.	12362019	12372019
3.	Complaint date	11.06.2019	11.06.2019
4.	AO's order dated	23.09.2021	23.09.2021
5.	Principal amount	Rs.4,80,000/-	Rs.4,80,000/-
6.	Simple interest	At the SBI highest marginal cost of lending rate (as on the date of order i.e. 23.09.2021) plus 2% on the above said amount from the date of respective payments till realization.	
7.	On account of compensation	Rs.70,000/-	Rs.70,000/-

The appellants have been directed vide aforesaid orders to pay the above said amounts to the complainants within sixty days from the date of the impugned orders.

3. The facts have been extracted from Appeal No. 56 of 2022 (**Manohar Infrastructure & Const. Pvt. Ltd. versus Mohan Inderjeet Singh**).



4. The complaint bearing AdC No. 12362019 has been filed before the Adjudicating Officer by Mr. Mohan Inderjeet Singh, in form N under section 31 read with section 71 of the Real Estate (Regulation and Development) Act, 2016 (*hereinafter referred to as the Act*) and Rule 37(1) of the Punjab State Real Estate (Regulation and Development) Rules, 2017 (*hereinafter referred to*

*as the Rules*) praying that the appellant be directed to refund the amount given by the complainant along with interest as per the provisions of the Act as well as compensation to the tune of Rs.5,00,000/- for causing mental agony, harassment & financial loss to the respondent-complainant and Rs.1,00,000/- as legal fees and to impose strictest penalty on the appellant for non-compliance of the provisions of the Act.

5. Aggrieved by the above said order dated 23.09.2021 of the Adjudicating Officer, the appellant filed Appeal No. 56 of 2022 before this Tribunal and prayed to reverse/set aside the same & dismiss the complaint with costs.
6. The appellant initially prayed, vide Application No. 86 of 2022 that was filed along with the appeal, to exempt it from paying any money to comply with the provisions of Section 43(5) of the Act. However, vide its Application No. 136 of 2022, the appellant has inter alia placed on record demand draft dated 23.05.2022 for Rs.9,89,306/- payable in terms of Section 43(5) of the Act.
7. In the grounds of the aforesaid appeal bearing Appeal No. 56 of 2022, it has inter alia been contended (i) that the Adjudicating Officer wrongly assumed jurisdiction to entertain and decide the complaint; (ii) that after expression of interest dated 02.01.2011 and payment of Rs.4,80,000/- for the plot, the respondent-complainant never approached the appellant to do the needful in order to enable the appellant to give possession; and (iii) that respondent did not follow the payment plan.



**MY OPINION IN THE MATTER OF JURISDICTION OF THE  
ADJUDICATING OFFICER OF REAL ESTATE REGULATORY  
AUTHORITY PUNJAB FOR ADJUDICATION OF  
COMPLAINTS MADE IN COMPOSITE APPLICATION**



**INVOLVING REFUND/RETURN OF AMOUNT DEPOSITED BY  
THE ALLOTTEE, INTEREST THEREON AND  
COMPENSATION:**

8. I have expressed my opinion in detail while disposing off Appeal No. 277 of 2020 (EMAAR India Ltd. (formerly EMAAR MGF Land Limited) versus Sandeep Bansal) vide order dated 24.02.2022 and further updated it while disposing off cross appeals bearing Appeal No. 268 of 2020 (Vijay Mohan Goyal & Anr. versus Real Estate Regulatory Authority Punjab & Ors.) and Appeal No. 6 of 2021 (PDA Patiala versus Vijay Mohan & Ors.) vide order dated 03.03.2022, as per which, I am of the view that the appeals, against the orders passed by the Adjudicating Officer in the complaints involving composite claim of refund, interest thereon and compensation, need not be remanded by this Tribunal to the Authority but should be decided by this Tribunal on merit, provided that such orders have been passed by the Adjudicating Officer pursuant to the directions imparted by the Authority in this regard vide its circular No. RERA/Pb./ENF-17 dated 19.03.2019 in view of the judgment dated 27.02.2019 of this Tribunal in Appeal No. 53 of 2018 or vide circular No. RERA/PB/LEGAL/24 dated 05.03.2021 of the Authority but before (in both the cases) the decision of the Authority circulated vide its circular No. RERA/LEGAL/2021/8950 dated 06.12.2021.

**MY OPINION IN THE APPEAL**

Most of the contentions of the appellant in the appeal have already been adjudicated upon by the Adjudicating Officer and I generally don't see any merit in those contentions to interfere in the findings of the Adjudicating Officer, except on certain issues as detailed hereinafter.





10. One of the contentions of the appellant is that the Adjudicating Officer wrongly assumed jurisdiction to entertain and decide the complaint, whereas vide order dated 11.11.2021 in M/s Newtech Promoters and Developers Pvt. Ltd. versus State of UP and others, Hon'ble Supreme Court of India has held that matter regarding refund of amount and interest thereon is within the power of the Authority.
11. In this regard, it is mentioned that taking notice of reference of circular dated 05.03.2021 of the Authority in the another order dated 15.04.2021 of the Adjudicating Officer in Appeal No. 130 of 2021 (**Country Colonisers Pvt. Ltd. versus Rupinder Kaur Narang and others**) and then perusing, with specific reference to aforesaid circular dated 05.03.2021, the judgment dated 11.11.2021 passed by Hon'ble Supreme Court of India in Civil Appeal No(s). 6745-6749 of 2021 titled 'M/s Newtech Promoters and Developers Pvt. Ltd. versus State of UP & Ors. etc and connected matters', I arrived at the conclusion, specifically by conjoint reading of paragraphs 86, 120 & 116 (in this sequence) of the aforementioned judgment dated 11.11.2021 and section 81 of the Act, that the delegation of its power of "refund of the amount and interest thereon" by the Authority vide aforementioned circular dated 05.03.2021 to its Adjudicating Officer in the cases in which compensation (including payment of interest as compensation) is additionally claimed is in accordance with the mandate of law viz section 81 of the Act and hence, the so empowered/directed Adjudicating Officer has the jurisdiction to deal all cases where the claim is for the return of amount deposited by the allottee, interest thereon and in addition compensation (including payment of interest as compensation). Accordingly, during the proceedings



held on 10.01.2022 in the afore-mentioned Appeal No. 130 of 2021, I expressed my aforementioned opinion, which has also been expressed by me as minority view in the judgments/orders of this Tribunal in the appeals mentioned under paragraph 8 above and some more appeals disposed off thereafter. Because aforesaid circular dated 05.03.2021 has been amended by the Authority vide its circular dated 06.12.2021 i.e. after the date of the impugned order dated 23.09.2021, therefore, I hereby hold that the Adjudicating Officer was having jurisdiction at the time of passing the impugned order dated 23.09.2021 to deal with the complaints/applications involving refund of the amount deposited, interest thereon and compensation etc.

12. Hence, in my opinion, there is no reason to interfere in the impugned orders.
13. The appeals are accordingly disposed off. Files be consigned to record room and a copy of this order be filed in the files of the appeals and also be communicated to the parties as well as to the Authority and the Adjudicating officer.

May 27, 2022

*Sdr*  
ER. ASHOK KUMAR GARG, C.E. (RETD.),  
MEMBER (ADMINISTRATIVE/TECHNICAL)



Certified To Be True Copy  
*Donamendes Kaur*  
Registrar  
Real Estate Appellate Tribunal Punjab  
Chandigarh

07/06/2022