



REAL ESTATE

# No Waiver of Pre-Deposit for Promoters: A Critical Analysis of DLF Ltd. v. Gautam Rana

The real estate appellate jurisprudence in India witnessed a significant reaffirmation of the mandatory pre-deposit requirement under the Real Estate (Regulation and Development) Act, 2016, in DLF Ltd. v. Gautam Rana, decided by the Haryana Real Estate Appellate Tribunal on 01 May 2026. This ruling signifies the non-negotiable statutory obligation cast upon promoters when challenging [...]

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The matter came before a Division Bench comprising Justice Rajan Gupta, Chairman, and Shri Dinesh Singh Chauhan, Technical Member, in CM No. 943 of 2026 in/and Appeal No. 130 of 2026. The appellant, M/s DLF Limited, assailed an order dated 01.08.2025 passed by the Haryana Real Estate Regulatory Authority, Gurugram. The respondent, Sh. Gautam Rana, was the allottee in the Gurugram project.

The dispute arose from a Builder-Buyer Agreement under which the allottee failed to adhere to the payment schedule despite repeated reminders, leading the promoter to cancel the allotment on 20.09.2023. The Authority, exercising powers under Section 37 read with Section 34(f) of the RERA Act, directed DLF to refund the deposited amount after deducting ten percent of the sale consideration, along with interest at 10.90 percent on the balance from the date of termination until actual refund, in accordance with Rule 16 of the Haryana RERA Rules, 2017. A compliance window of ninety days was granted.

Aggrieved, DLF filed the appeal after a delay of one hundred and three days. Crucially, the promoter did not deposit the statutory pre-deposit mandated by the proviso to Section 43(5) of the RERA Act, instead filing an application seeking waiver or exemption, contending that the obligation was onerous and discriminatory since allottees face no parallel requirement.

The appellant argued that the impugned order was unsustainable as the allottee himself had breached the Builder-Buyer Agreement, and that pre-deposit should not apply when challenging an order arising from the allottee's default. DLF further assailed the differential treatment as discriminatory, asserting that the pre-deposit requirement imposed an unconstitutional burden exclusively upon builders.

The Tribunal rejected these contentions. It held that under the proviso to Section 43(5), where a promoter appeals against an order involving return of amounts to an allottee, the promoter must deposit the total amount to be refunded, inclusive of interest and compensation, before the appeal can be entertained. Relying upon the Supreme Court judgment in *M/s Newtech Promoters and Developers Pvt. Ltd. v. State of UP*, 2022(1) RCR (Civil) 367, the Tribunal emphasized that it possesses no jurisdiction to waive or exempt the pre-deposit requirement, and an appeal without such deposit deserves outright dismissal.

Addressing the discrimination argument, the Tribunal observed that while the submission appeared attractive at first blush, it was legally unsustainable. The RERA Act's scheme reveals that allottees bear limited rights and duties under Section 19, whereas promoters are subjected to extensive obligations under Chapters III and VIII, encompassing registration, adherence to sanctioned plans, insurance, and liability for penalty, interest, and compensation. The classification rests upon an intelligible differentia and serves the Act's fundamental object of protecting homebuyers vis-à-vis developers. The differential treatment under Section 43(5) is neither arbitrary nor discriminatory.

Regarding the delay, the Tribunal noted that since the appeal lacked the requisite pre-deposit, the question of condoning the delay did not arise. The Authority's order remained in operation throughout, rendering the promoter liable for delayed possession charges.

The Tribunal dismissed the appeal as not maintainable due to lack of pre-deposit, with no order as to costs. However, the appellant was granted liberty to seek revival if it complied with the mandatory pre-deposit within one month. The accompanying applications were also dismissed.

This judgment reinforces the rigidity of the statutory framework governing real estate appeals and affirms that legislative intent to safeguard allottee interests cannot be circumvented through procedural leniency. Promoters must strictly adhere to the pre-deposit mandate, ensuring that homebuyers' refunds remain secured even during appellate scrutiny.

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