

**BEFORE THE REAL ESTATE REGULATORY AUTHORITY, HIMACHAL
PRADESH AT SHIMLA**

Complaint no. HPRERA2023012/C

In the matter of,

Sh. Ram Kumar Singh, S/O Ishwar Kumar Singh ,R/O. H. No. - 1144, Ground Floor, Sector-15, Vasundra, Ghaziabad, Uttar Pradesh,201012

.....Complainant

Versus

1. M/s Rajdeep and Company Infrastructure Private Limited, registered office at SCO 12, First Floor, Hollywood Plaza, VIP Road, Zirakpur, Chandigarh, Chandigarh, 140603
2. M/s Rajdeep & Co. Infrastructure Pvt. Ltd. Office At SCO 91 Sector -3 Panchkula-Haryana Through Its Authorized Signatory Sh. Jasbir Singh S/O Sh. Hemraj Saini, R/O H/NO 1 Aashiana Colony Derabassi -Punjab

.....Respondent/Applicant

Present: Sh. Ravi Shankar Sood for complainant Sh. Ram Kumar

Sh. Shakti Bhardwaj vice Sh. Ravi Tanta for the respondent promoter M/s Rajdeep and Co. Infrastructure Pvt. Ltd.

Sh. Leeladhar, Ld. Counsel for Respondent No. 2 HDFC

Date of hearing: 02.08.2025

Date of Pronouncement of Order: 12.09.2025

Interim Order

Coram: Chairperson and Members

1. That the present complaint was filed by complainant praying for refund of the sum paid and for direction to respondent to settle the loan liability with the bank, since there has been gross failure on part of respondent

in timely possession of the unit in question. To this complaint a reply was filed by the respondent no.1. However, with the reply an application was filed under Order 7 Rule 11 of the Code of Civil Procedure praying that before proceeding with the main case it is imperative for this Authority to decide the instant application.

2. Contents of application in brief-

The respondents have moved an application under Order VII Rule 11 CPC seeking rejection of the complaint on the grounds of being frivolous, vexatious and devoid of cause of action. It is urged that the dispute is already the subject matter of a pending civil suit for specific performance (Civil Suit No. 15/2022) before the Civil Judge (Sr. Division), Shimla, filed by the respondent against the complainant and HDFC Ltd., wherein both parties are contesting. Reliance is placed on *Azhar Hussain v. Rajiv Gandhi* (AIR 1986 SC 1253), *Church of Christ Charitable Trust v. Ponniannan Educational Trust* (Civil Appeal No. 4841/2012), and *T. Arivandandam v. T.V. Satyapal* (1977) 4 SCC 467, to submit that a plaint not disclosing a cause of action or manifestly vexatious is liable to be rejected at the threshold. The respondents contend that the matter involves disputed questions of fact triable only in civil proceedings, and permitting the complaint would amount to allowing parallel proceedings, prohibited in law as held in *Meghmala v. Narasimha Reddy* (2010) and *Union of India v. Cipla Ltd.* (2016). It is further submitted that the project falls under the exemptions of Section 3(2) RERA and was completed prior to the Act's enforcement. Hence, dismissal with exemplary costs is prayed for.

3. Reply to the application-

The complainant has filed a detailed reply opposing the respondent's application under Order VII Rule 11 CPC. It is contended that the


application is misconceived, vague and filed with the sole intention of defeating the complainant's statutory rights under the Real Estate (Regulation and Development) Act, 2016 ("RERA"). It is urged that the provisions of the CPC, including Order VII Rule 11, do not strictly govern proceedings before this Authority, which is guided by the special statute. The plea of "parallel proceedings" is stated to be untenable, since the complainant has not initiated any litigation elsewhere; rather, the suit pending before the Civil Court has been instituted by the respondent itself, which is barred by Section 79 of RERA. Reliance is placed on *Imperia Structures Ltd. v. Anil Patni* (2020) MANU/SC/0811/2020 to assert that jurisdiction over such disputes lies exclusively with the Authority, and civil courts stand excluded. It is further submitted that the project in question falls within the ambit of RERA, as already adjudicated by this Authority in *Vivek Gupta v. Rajdeep & Co. Infra Pvt. Ltd.* MANU/RR/0169/2020 and subsequent rulings. Accordingly, the complainant prays that the respondent's application be dismissed as frivolous, and the complaint be heard on merits.

4. Findings-

The Authority has considered the respondents' application under Order VII Rule 11 CPC and the complainant's reply. Section 79 of the RERA Act, 2016 expressly bars the jurisdiction of civil courts in matters within the Authority's domain. Disputes relating to possession, refund, and promoter obligations are exclusively triable by this forum; hence pendency of a civil suit cannot oust its jurisdiction. The invocation of Order VII Rule 11 CPC is misconceived, as CPC provisions do not strictly apply here. The Supreme Court in *Imperia Structures Ltd. v. Anil Patni* (2020) affirmed that RERA remedies are special and in addition to others.

5. The plea of parallel proceedings is untenable since the complainant has approached only this Authority under Section 31 seeking refund and loan settlement, whereas the civil suit was filed by the respondents. The complaint discloses a valid cause of action—substantial payments made, agreements executed, but possession not delivered—squarely falling within Section 18 of the Act. Authorities cited by respondents pertain to rejection of complaints under CPC and are inapplicable to RERA's special scheme.
6. On applicability, the project is not exempt under Section 3(2); this Authority has previously held in *Vivek Gupta v. Rajdeep & Co. Infra Pvt. Ltd.* that such developments mandate registration. Arguments of disputed facts requiring trial in civil court are also misplaced, as Section 35 empowers this Authority to summon evidence. Accordingly, the application under Order VII Rule 11 CPC is dismissed. The complaint shall proceed on merits in accordance with law.


(Amit Kashyap)
MEMBER


(R.D. Dhiman)
CHAIRPERSON


(Vidur Mehta)
MEMBER