

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

Complaint no. HPRERA2023010/C

In the matter of,

Sh. Pankaj Kumar, S/O Narinder Kumar, R/O. H. No. - 2307, Housing Board Colony Sector-4, Rewari -123401

.....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. 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. Pankaj 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 filed the present application seeking rejection of the complaint on the grounds of maintainability, frivolity, and parallel proceedings. It is their submission that the object of the Real Estate (Regulation and Development) Act, 2016 is not confined merely to prosecution or penalization of promoters but is primarily aimed at ensuring transparency, regulation, and consumer protection in real estate transactions. The respondents submit that prior to the filing of this complaint, they had already instituted Civil Suit No. 16 of 2022 for specific performance before the Civil Judge (Sr. Division), Shimla, against the complainant and HDFC Ltd., in which both parties are contesting and the matter is sub judice. It is contended that the present complaint is nothing but an attempt to delay proceedings in the said civil suit, amounting to parallel proceedings, which stand barred by settled law [Azhar Hussain v. Rajiv Gandhi, AIR 1986 SC 1253; Meghmala v. G. Narasimha Reddy, (2010) 8 SCC 383]. The respondents further argue that the complaint discloses no cause of action, involves disputed questions of fact requiring evidence, and is otherwise barred under Section 3(2) of the Act since the project comprises less than 500 sq. meters and fewer than eight units, with completion prior to the Act's enforcement. On these grounds, dismissal with exemplary costs has been 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, submitting that the same is misconceived, frivolous, and legally untenable. It is contended that the Real Estate (Regulation and Development) Act, 2016 is a self-contained code, and this Authority is not bound by the CPC; hence, the provisions of Order VII Rule 11 are inapplicable. The complainant

asserts that there are no parallel proceedings, since the complaint before this Authority is the only proceeding initiated by the complainant. In contrast, the civil suit instituted by the respondent itself is barred under Section 79 of the RERA Act, which explicitly ousts the jurisdiction of civil courts in matters covered under RERA. Reliance has been placed on the judgment of the Hon'ble Supreme Court in *Imperia Structures Ltd. v. Anil Patni* (MANU/SC/0811/2020), wherein it has been held that RERA has exclusive jurisdiction in such disputes. The complainant further points out that the project in question squarely falls within the ambit of RERA, as already held in earlier decisions of this Authority, including *Vivek Gupta v. Rajdeep & Co. Infra Pvt. Ltd.* (MANU/RR/0169/2020). It is thus urged that the application be dismissed outright as an abuse of process and that the complaint be proceeded with on merits.

4. **Findings**-We have considered the pleadings, rival submissions, and legal position. The central issue is whether the present complaint deserves rejection under Order VII Rule 11 CPC as frivolous, vexatious, barred by parallel proceedings, or otherwise not maintainable under the Real Estate (Regulation and Development) Act, 2016 ("the Act").
5. The Act is a self-contained code to regulate the real estate sector and protect allottees. Sections 79 confer exclusive jurisdiction on this Authority and the Appellate Tribunal, expressly barring civil courts from entertaining such disputes. Once the grievance relates to delayed possession, refund, or promoter obligations, jurisdiction vests exclusively in this Authority. The pendency of a civil suit filed by the respondents cannot oust this jurisdiction; rather, by virtue of Section 79, it is the civil proceedings that are non-maintainable. The Supreme Court in *Imperia Structures Ltd. v. Anil Patni* (2020) settled this principle, holding that RERA remedies are special, additional, and unaffected by parallel civil proceedings.
6. The plea of "parallel proceedings" is equally untenable. Parallel proceedings arise where the same party seeks identical relief before two fora. Here, only the respondents have approached the civil court; the complainant has exercised his statutory right exclusively under RERA.

7. Reliance on Section 3(2) is misplaced, since this Authority has earlier held in *Vivek Gupta v. Rajdeep & Co. Infra Pvt. Ltd.* that the project falls within RERA. The complaint clearly discloses a cause of action under Sections 12, 14, 18, and 19. Accordingly, the application under Order VII Rule 11 CPC is dismissed as devoid of merit, and the complaint shall proceed on merits.


(Amit Kashyap)
MEMBER


(R.D. Dhiman)
CHAIRPERSON


(Vidur Mehta)
MEMBER