

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

**Complaint no. HPRERA2023011/C**

**In the matter of,**

Sh. Ram Kumar Singh, S/O Ishwar Kumar Singh, Resident of H. No. -1144, G Floor, Sector 15, Vasundhara Ghazibad- 201010

.....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. 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 respondent has moved an application under Order 7 Rule 11 of the Code of Civil Procedure seeking rejection of the complaint on the ground that it is frivolous, vexatious and discloses no cause of action. It is contended that the subject matter is already pending adjudication in Civil Suit No. 15 of 2022 for specific performance before the Civil Judge (Sr. Division), Shimla, and parallel proceedings would amount to forum shopping, multiplicity of litigation and risk of conflicting decisions, as held by the Supreme Court in *Azhar Hussain v. Rajiv Gandhi* (AIR 1986 SC 1253), *T. Arivandandam v. T.V. Satyapal* (1977) 4 SCC 467, and *Meghmala v. G. Narasimha Reddy* (2010) 8 SCC 383. It is further urged that the complaint does not disclose a clear cause of action and essentially involves disputed questions of fact triable only in the civil suit. The respondent submits that the project in question was completed prior to the commencement of the Real Estate (Regulation and Development) Act, 2016, and in any event falls within the exemption of Section 3(2) of the Act. On these grounds, dismissal of the complaint with exemplary costs has been prayed for.

3. **Reply to the application-**


The complainant has opposed the application under Order 7 Rule 11 CPC filed by the respondent, terming it misconceived, frivolous and devoid of merit. It is urged that the provisions of the Code of Civil Procedure do not strictly govern proceedings before this Authority and, in any case, Section 79 of the Real Estate (Regulation and Development) Act, 2016 expressly bars the jurisdiction of civil courts in matters falling within the domain of RERA. Reliance is placed on the judgment of the Hon'ble Supreme Court in *Imperia Structures Ltd. v. Anil Patni* (2020) MANU/SC/0811/2020, holding that allottees have a clear statutory right to invoke RERA remedies notwithstanding pendency of civil proceedings. The complainant further submits that the plea of "parallel proceedings" is misconceived, since the complainant has approached


only this Authority and not multiple fora; rather, it is the respondent who has improperly instituted a civil suit which itself is barred. It is further emphasized that the project in question falls squarely within the ambit of RERA, as already determined in earlier decisions of this Authority, and the complainant is entitled to relief thereunder. Accordingly, the application under Order 7 Rule 11 CPC deserves outright dismissal.


#### **4. Findings of the Authority-**

We have considered the respondent's application under Order VII Rule 11 CPC, the complainant's reply, and rival submissions. The core issue is whether the complaint is liable to be rejected as frivolous or barred due to pending civil proceedings, or whether this Authority retains jurisdiction under the Real Estate (Regulation and Development) Act, 2016 ("the Act").

5. The Act is a special enactment aimed at protecting allottees and ensuring speedy dispute resolution. Section 79 expressly bars civil court jurisdiction in matters within the Authority's domain, while Sections 88 and 89 clarify the Act's overriding effect. Reliance on general CPC principles and precedents regarding frivolous litigation is misplaced, as RERA is a self-contained code. The pendency of a civil suit does not oust this Authority's jurisdiction, as reaffirmed by the Supreme Court in *Imperia Structures Ltd. v. Anil Patni* (2020).
6. The complainant has pleaded promoter's failure to deliver timely possession and settle financial liability—clear causes of action under Sections 12, 14, and 18. These raise triable issues. The plea of exemption under Section 3(2) was already rejected by this Authority in *Vivek Gupta v. Rajdeep & Co.* (17.12.2020). The contention of "parallel proceedings" is misconceived, since it is the respondent who approached the civil court, despite Section 79's bar. Allowing such tactics would defeat consumer remedies under the Act. Accordingly, the application under Order VII Rule 11 CPC is dismissed. The complaint discloses a valid cause of action and shall proceed on merits in accordance with law.

  
( **Amit Kashyap** )  
**MEMBER**

  
( **R.D. Dhiman** )  
**CHAIRPERSON**

  
( **Vidur Mehta** )  
**MEMBER**