



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

BEFORE THE ADJUDICATING OFFICER

Execution No. 2613 of 2022

In

Complaint No. 941 of 2021

VP Batra

....Decree Holder

VERSUS

Parsvnath Developers Ltd.

....Judgment Debtor

Date of Hearing: 07.08.2025

Hearing: 18th

Present: Mr. Shubhnit Hans, Adv., for the decree holder through VC.
Mrs. Rupali S. Verma, Adv., for the judgment debtor.
Mr. Pranay Malhotra, Authorized representative of judgment debtor.

ORDER

Today, case is fixed for receipt of the replies of the each of Directors of the judgment debtor company, namely Mr. Rajeev Jain(Director); Mr. Pradeep Kumar Jain(Director); Ms. Deepa Gupta (Director); Mr. Sanjeev Kumar Jain (Managing Director), to show-cause notices issued in compliance of detailed order dated 03.03.2025 passed by this Forum under Order XXI Rule 41(2) CPC, before passing a final order in compliance of Order XXI Rule 41(3) CPC, if the replies found unsatisfactory or otherwise not filed at all. There was also advance service of

Phalit
21/8/2025

notice to initiate action under Section 63 of the RA(RD) Act, 2016, if the Directors fail to appear in person.

2. Out of the four Directors issued Show cause notices and advance notice under Section 63 of the Act, 2016 through order dated 03.03.2025, one Director namely Ms. Deepa Gupta, is having address of out of India which is the reason that the report of service is still awaited; one Director namely Mr. Pradeep Kumar Jain, is shown to have been served but did not put in his appearance-in-person despite directions; notice issued to Mr. Rajeev Jain, Director, has been received unserved with the report that though address is correct but Sh. Rajeev Jain was not found at home or shifted from the given address; notice issued to fourth Director namely Mr. Sanjeev Kumar Jain, has been returned back with report 'address incomplete or wrong address.

In the given circumstances, wherein all the four Directors have avoided service on one ground or the other at their last known address, this Forum is of the view that when show cause notices under Order XXI Rule 41(3) CPC were sent to the judgment debtor and its working directors at the addresses provided by them in A-H Forms submitted with Hon'ble Authority at the time of registration and there has been no information from judgment debtor's side to Hon'ble

²
Phalik
7/8/2025

Authority, regarding change of address by its Directors, only presumption which arises, having in mind the provisions of Section 27 of General Clauses Act, 1977, that since the notice was sent on correct address, even if there is a postal report of non-service, the notice is presumed to have been served more so when there is no proof from judgment debtor side that change of address was duly informed to competent authority to get them served at the new address. It means, three out of four working Directors namely Mr. Pradeep Kumar Jain, Mr. Sanjeev Kumar Jain and Mr. Rajeev Jain, despite having received the show-cause notices and also despite having opportunity given, did not elect to present their defence in person against expected order of sending them to civil imprisonment up to three months as is mandate of Order XXI Rule 41(3) CPC, which is clear cut defiance on their part of the orders of this executing Forum. Not only this, they have not appeared despite directions to appear in person warranting separate penal action against them under Section 63 of the RA(RD) Act, 2016. Hence, in the given circumstances, clear cut intentional violations of directions so passed, these violators are bound to face adverse consequences of provisions of Order XXI Rule 41(3) CPC and section 63 of the RERA Act, 2016. However, action against Ms.

³
P. Dalit
21/8/2025

Deepa Gupta, remains pending till report from abroad on her notice is received back served or unserved.

3. To prevent any adverse order, Mr. Pranay Malhotra, representative of corporate debtor duly supported by ld. counsel for the judgment debtor, has committed at bar that out of the total amount of ₹8,63,914/- payable to satisfy the order under execution, 50% would be paid in next 15 days and the remaining in 15 days thereafter positively, so no coercive action be initiated. He has further requested one more opportunity to comply with the order under execution and prayed that since payment of amount would satisfy the order under execution, there is no requirements for the summoned Directors to file reply to show cause notice issued under Order XXI Rule 41(3) CPC. Finally, request is made to adjourn the case.

4. On the other hand, Ld. counsel for the decree holder has stated that the judgment debtor has not complied with order under execution dated 30.03.2022 till date and that judgment debtor is using these delay tactics to prolong the execution proceedings. He further submitted that payment of the decretal amount is a different issue than the non-compliance order dated 03.03.2025 on the part of the working directors of judgment debtor company and since they have not appeared in person as otherwise was required in compliance of Order XXI Rule 41(2) and (3)

⁴
Phalit
7/8/2025

CPC, this Forum is left with no option but to sentence them to civil imprisonment for three months and for that the decree holder is ready to deposit the subsistence allowance in the manner ordered by this Forum, so that the directors of the judgment debtor company are put behind bars for intentional violation of orders of this Forum passed in execution.

5. Having the above rival contentions in mind and the facts on record, at the outset, it is pertinent to mention here that a person who is not approaching the court with clean hands, does not deserve any relief and this forum is not in agreement to grant adjournment particularly having in mind the previous conduct of the judgment debtor in many of the unsatisfied executions for years together due to non-payment of the amounts due. In the instant case, four legal grounds are there on record to order against the Directors of the judgement debtor company, to face civil imprisonment for three months for intentional violation of this Forum's order dated 03.03.2025 passed while exercising powers as that of a civil court, provided under section 40 of the RERA Act, 2016, read with Rule 27 of HRERA Rules, 2017.

(i) The first reason is that despite having been given the opportunity to comply with directions passed under Order XXI Rule 41(2) CPC, they did not elect to submit affidavit(s). Further, when an opportunity was given to explain as to why they should not be sent to civil imprisonment

⁵
Pholit
2/8/2025

for non-compliance of order dated 13.01.2025, they even did not elect to submit replies in person or otherwise. Meaning thereby, they have no respect for the judicial system and the orders passed thereunder. In the given circumstances, it becomes legal duty of this Forum, that the disobedient directors should be sent to civil imprisonment for disobeying order of the quasi-judicial Forum, so that a deterrent message is communicated to all like-minded to follow the law and not to misuse it to harm others.

(ii) In addition to above, the second ground is that the judgement debtor company and its directors are not paying the amount of compensation granted to decree holder vide order dated 30.03.2022 under execution, despite having resources. This Forum can conveniently infer that so far payment has not been made despite its availability as the judgement debtor company and its working directors were just intentionally delaying the satisfaction of execution to cause prejudice to the decree holder. Today, the representative and Id. counsel for the judgment debtor are requesting one months' time to make payment to the decree holder, which means the judgment debtor has funds to pay the amount in time. In other words, the judgment debtor is not clearing the account despite having resources.

6
Phalit
7/8/2025

(iii) In addition to above, the third reason is the tendency of the judgment debtor company and its directors to adopt an approach of falsehood, to harass the decree holder, just to get postponement of anticipated adverse action initiated by this Forum in accordance with law. These directors not only avoided the show cause notices sent through post but also have tried to buy time to delay the execution through a statement of representative before this Forum instead of appearing themselves. Their attitude of non-appearance despite order, is another reason to infer that they believe in violation of orders. In fact, this type of behaviour of judgment debtor who have a tendency to delay the execution by getting adjournment to avoid action has compelled this Forum not to grant any adjournment to such litigants. Rather, such tendency of the judgement debtor is required to be curbed with stern hands. Undoubtedly, this Forum in Execution has to meet the object of this beneficial legislature by drawing balance between the rights of allottee and the promoter who are before it as decree holder and the judgement debtor respectively and while doing so has to have a sympathetic approach towards the one who is abiding by law and also not trying to mislead the Forum just to buy time and harass the other party. Since, in the case in hand, the judgement debtor company and its directors have disobeyed order without any justified cause and further not making payment

Phalik
21/8/2025

despite availability of resources, they do not deserve any sympathy in this matter wherein the Decree Holder despite following legal procedure to recover amount, is suffering mentally and financially to get its dues.

(iv) Fourthly, learned counsel for the judgment debtor herself and through representative of judgment debtor, namely Mr. Pranay Malhotra have sought adjournment on the plea that judgment debtor company will make the payment of decretal amount within one month to the decree holder, thus satisfy the order under execution warranting no punitive action against the Directors of judgment debtor company or corporate debtor summoned to file their individual replies for violation of provisions of Order XXI Rule 41(2) CPC. This Forum having heard this request, find no merit because satisfaction of money decree is different from action warranted against the judgment debtor for non-compliance of regulatory order, warranting punitive action. In fact, there is a distinction between punitive actions and criminal proceedings. Order XXI Rule 41(3) CPC empowers an executing Forum to impose penalty to ensure adherence of the direction passed under Order XXI Rule 41(2) CPC by judgment debtor who voluntarily fail to adhere to. Such penalty does not arise from any 'debt' owed to the creditor but rather from failure to comply with the remedial mechanism established under CPC. Meaning thereby, the penalty imposed by an Executing Forum while

8
Phalit
21/8/2025

exercising power under Order XXI Rule 41(3) CPC are regulatory in nature and aimed to protect the public interest. In simple words, since action initiated under Order XXI Rule 41(3) CPC is because of non-compliance of order passed by Executing Forum, on the part of the judgment debtor, such penalty is not in the nature of ordinary contractual debt but rather an action initiated against judgment debtor. The judgment debtor who not only has made the decree holder to suffer financially unethical business practices, but also is blatantly violating the orders passed by the Executing Forum. Thus, if the plea of the judgment debtor to pay the amount in month's time is accepted that too without cogent proof in support thereof, it would create an unfair advantage for errant entities and individuals, allowing them to evade their legal obligations under the guise of repeated false promises. The present case does not involve a mere financial dispute but concerns the enforcement of decree holder's right through regulatory penalties, and if such penalty is not imposed in a case like the one under consideration where the corporate debtor and its Directors have not elected to comply with order dated 03.03.2025 passed by this Forum, it would be contrary to public policy which warrants that penalties imposed by Regulatory Bodies in the public interest cannot be stayed. To hold so, this Forum has taken strength from the law laid down by Apex Court in Civil Appeal no.4048 of 2024 dated

⁹
Pratik
21/8/2025

04.03.2025 titled as "Saranga Anilkumar Aggarwal vs Bhavesh Dhirajlal Sheth & Ors."

(v) In view of the foregoing discussion, it is concluded that Shri Rajeev Jain, Director, Shri Sanjeev Kumar Jain, Director and Shri Pradeep Kumar Jain, Director of the judgement debtor company, having no defense to make to the show cause notice given before passing an order to send them behind bars for disobedience of Forum's order and have not paid the amount despite having resources, are held guilty for violation of this Forum's order dated 03.03.2025, consequently, are awarded three months civil imprisonment, on deposit of subsistence allowance by the decree holder on or before 09.09.2025. The subsistence allowance is assessed as ₹100/- per day for each having in mind provisions of Rule 332 of Haryana Prison Rules, 2022. Once, the subsistence allowance as per procedure is deposited by the Decree Holder, under intimation to this Forum, let warrant of arrest be issued against Shri Rajeev Jain, Director, Shri Sanjeev Kumar Jain, Director and Shri Pradeep Kumar Jain, Director to let them undergo three months' civil imprisonment from the date of their arrest, till the sentence is completed until and unless the judgement debtor company and its working directors satisfy the order under execution in accordance with law. While passing this order, this Forum has followed the law reported in M.

10
Phaliv
7/8/2025

Ramalingam Vs. P. Krishnaveni (2013) 10 SCC 673, Rajesh Kumar Aggarwal Vs. Kamal Aggarwal (2018) 14 SCC 625, S. Sivasubramaniyan Vs. S. Sivakumar (2020) SCC Online Mad 3305, K. Bhaskaran Vs. M.S. Narayanan (2004) 8 SCC 31, P.S.S. Somasundaram Vs. S. Rajalakshmi (2013) 1LW 744.

(vi) It is made clear that the deposit of subsistence amount shall be mandatory for the decree holder, to get its execution fully satisfied, unless the order under execution is satisfied prior thereto.

(vii) It is further made clear that the subsistence amount in view of Order XXI Rule 39 CPC, shall be deposited by the decree holder with the office of Hon'ble Authority to get it deposited the same with jail authority concerned. It is also made clear that the amount so deposited by decree holder shall be recoverable as costs by the decree holder from the judgement debtor as provided in Order XXI Rule 39(5) CPC.

(viii) It is also made clear that when the judgement debtor(s) would be produced on being arrested, compliance of Section 55(3) of the Code of Civil Procedure, shall be mandatory on the part of this Forum.

6. The issue of initiation of action under Section 63 of the Act, 2016, notice of which has already been sent to the working directors and the judgement debtor company through the contents of order dated 03.03.2025 and it is presumed

to be served, shall be considered separately on the next date of hearing i.e. 13.10.2025.

7. Let, the file be put up on 09.09.2025, to receive information about deposit of subsistence allowance from the decree holder and thereafter for issuance of warrants of arrest against the directors named, returnable on or before 13.10.2025.

8. Warrants of arrest be got served upon the directors through the following judicial forums by sending a request letter in this regard:


(i) In respect of Mr. Rajeev Jain through City Metropolitan Magistrate, Karkardooma Court Complex, East District, Delhi;

(ii) In respect of Mr. Pradeep Kumar Jain through City Metropolitan Magistrate, Patiala House Court Complex, India Gate Circle, New Delhi District, Delhi;

(iii) In respect of Mr. Sanjeev Kumar Jain through Chief Judicial Magistrate, Gurugram.

9. Let, report on the notice of Ms. Deepa Gupta, be also awaited for that date.

Sourabh
Law Associate


.....
MAJOR PHALIT SHARMA
ADSJ (Retd.)
ADJUDICATING OFFICER
07.08.2025