



2026:UHC:4094-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA

AND

THE HON'BLE JUSTICE SHRI SUBHASH UPADHYAY

25th May, 2026

RERA APPEAL No. 07 of 2026

The Vardhman Developers

-----Appellant

Versus

Uttarakhand Real Estate Regulatory Authority and others

-----Respondents

Presence:-

Mr. I.M.Kuddusi, learned Senior Counsel, assisted by Mr. Deep Chandra Joshi, learned counsel for the appellant.

Ms. Monika Pant, learned counsel for the respondent no. 1 (through V.C.)

Mr. Ajar Rab (through V.C.) and Mr. Ankit Singh, learned counsel for the respondent no. 2.

JUDGMENT: (per Manoj Kumar Gupta, C.J.)

1. Heard Mr. I.M. Kuddusi, learned Senior Counsel, assisted by Mr. Deep Chandra Joshi, learned counsel for the appellant, and Ms. Monika Pant, learned counsel for the respondent no.1 and Mr. Ajar Rab, learned counsel for the respondent no.2.

2. The instant appeal has been filed against the order of the Uttarakhand Real Estate Appellate Tribunal, Dehradun dated 29.04.2026, by which, the Appellate Tribunal has directed the appellant to deposit 50% of the amount payable to the allottees in pursuance of



order of Uttarakhand Real Estate Regulation Authority to ensure compliance of the provision of sub-section (5) of Section 43 of the Real Estate Development and Regulation Act, 2016, which reads as follows: -

“(5) Any person aggrieved by any direction or decision or order made by the authority or by an adjudicating officer under this Act may prefer an appeal before the Appellate Tribunal having jurisdiction over the matter.

Provided that where a promoter files an appeal with the Appellate Tribunal, it shall not be entertained, without the promoter first having deposited with the Appellate Tribunal at least thirty per cent of the penalty, or such higher percentage as may be determined by the Appellate Authority, or the total amount to be paid to the allottee including interest and compensation imposed on him, if any, or with both, as the case may be, before the said appeal is heard.”

3. Learned counsel for the appellant submits that the RERA has not imposed any penalty on the appellant and consequently, sub-section (5) of Section 43 would not be attracted. He further submits that the appellant has not realized any amount from the allottees and in the sale-deed, the only recital is that the allottees would be entitled to use the common parking. Therefore, according to him, the order passed by RERA is illegal.



4. On the other hand, learned counsel for the respondent no. 2 submits that, in every case, where any amount has been ordered to be refunded, whether by way of penalty or otherwise, sub-section (5) of Section 43 of the Act, would get attracted.

5. The *proviso* to sub-section (5) of Section 43 of the Act is in two parts. Earlier part of the provision deals with the cases of penalty, where the pre-condition for entertaining appeal is deposit of 30% of the penalty or such higher percentage as may be determined by the Appellate Tribunal. The second and the latter part deals with any other amounts including interest or compensation, imposed by the Tribunal and in such cases, the same is required to be deposited as a pre-condition for availing the remedy of appeal.

6. The present case is a case where the RERA has recorded findings that the Appellant has realized parking fees from individual allottees and has failed to provide parking facilities to the allottees. Therefore, the amount realized as parking fee along with the interest has been ordered to be refunded. The present case would be covered by the latter part of the proviso,



whereunder any amount directed to be paid to the allottees including interest and compensation is required to be deposited as a pre-condition for availing the remedy of appeal.

7. The operative part of the order of RERA in respect of the refund of the parking fee to the allottees is as below:

"The respondent no.1 i.e., Vardhaman Developers is directed to refund to each of the allottees the entire amount of money (car parking fee charged including service tax or GST as the case may be) which has been collected from them towards sale price for open parking or stilt parking, as the case may be, within 45 days from the date of this order along with the interest @ 10.85% to be calculated from the date of payment to the date of this order. If the respondent no.1 fails to comply this order within 45 days from the date of this order, then further interest is to be paid for the period 20.11.2025 to the date preceding the date of actual payment. It would be the responsibility of respondent no.1 to verify, on top priority, their records and identify the allottees to whom car parking space has been sold and the price charged against car parking space so as to ensure compliance of this order within specified time limit."

8. We find that the Appellate Tribunal has, in fact, been lenient to the appellant in directing deposit of only 50% of the amount imposed by the Tribunal



2026:UHC:4094-DB

although the requirement in such cases is to deposit the entire amount.

9. As regard, the submission made on merits of the finding rendered by RERA, we refrain from making any comment on the same as the correctness of the said finding is still to be examined by the Appellate Tribunal. We accordingly find no merit in the instant appeal and the same is dismissed.

10. Pending application, if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 25.05.2026
Kaushal