

**REAL ESTATE APPELLATE TRIBUNAL, PUNJAB**  
SCO No. 95-98, Bank Square, P.F.C Building, Sector-17-B, Chandigarh

Subject: -

**Appeal No. 96 of 2021**

M/s Singla Builders & Promoters Limited, Plot No.1265C,  
Sector 82, JLPL, Industrial Area, SAS Nagar, Mohali,  
Punjab through its Director Amandeep Singla.

....Appellant

**Versus**

The Real Estate Regulatory Authority, Punjab, at  
Chandigarh through its Registrar (Legal), 1<sup>st</sup> Floor, Plot  
No.3, Block B, Madhya Marg, Sector-18, Chandigarh.

....Respondent

Memo No. R.E.A.T./2022/ 273

To,

**REAL ESTATE REGULATORY AUTHORITY, PUNJAB 1<sup>ST</sup>  
FLOOR, BLOCK B, PLOT NO.3, MADHYA MARG,  
SECTOR-18, CHANDIGARH-160018.**

Whereas appeals titled and numbered as above were filed  
before the Real Estate Appellate Tribunal, Punjab. As required by  
Section 44 (4) of the Real Estate (Regulation and Development) Act,  
2016, a certified copy of the order passed in aforesaid appeals is being  
forwarded to you and the same may be uploaded on website.

Given under my hand and the seal of the Hon'ble Tribunal this **15<sup>th</sup>**  
day of June, 2022.



*Amandeep Singla*

**REGISTRAR  
REAL ESTATE APPELLATE TRIBUNAL, PUNJAB**

**IN HON'BLE THE REAL ESTATE APPELLATE TRIBUNAL**  
**PUNJAB AT CHANDIGARH**

**APPEAL UNDER SECTION 44 OF THE RERA ACT, 2016**

In Re: Appeal No. 96 of 2021

**MEMO OF PARTIES**

M/S Singla Builders & Promoters Limited, Plot no 1265C, Sector 82, JLPL, Industrial Area, SAS Nagar, Mohali, Punjab through its Director Amandeep Singla.

.....Appellant

**Versus**

The Real Estate Regulatory Authority, Punjab at Chandigarh, through its Registrar (Legal), Ist Floor, Plot no.3, Block B, Madhya Marg, Sector 18 A, Chandigarh

.....Respondent

Place: Chandigarh

Date: 28.09.2021



(MRIGANK SHARMA)(AMANDEEP BINDRA)

ADVOCATES

COUNSELS FOR THE APPELLANT

**BEFORE THE REAL ESTATE APPELLATE TRIBUNAL,  
PUNJAB, AT CHANDIGARH**

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**Appeal No. 96 of 2021**

M/s Singla Builders & Promoters Limited, Plot No.1265C, Sector 82, JLPL, Industrial Area, SAS Nagar, Mohali, Punjab through its Director Amandeep Singla.

....Appellant

**Versus**

The Real Estate Regulatory Authority, Punjab, at Chandigarh through its Registrar (Legal), 1<sup>st</sup> Floor, Plot No.3, Block B, Madhya Marg, Sector-18, Chandigarh.

....Respondent

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Present: - Mr. Mrigank Sharma, Advocate for the appellant.  
Mr. Jaspal Singh Khara, Assistant Manager, Real Estate Regulatory Authority, Punjab.

**CORAM: JUSTICE MAHESH GROVER (RETD.), CHAIRMAN  
SH. S.K GARG DISTRICT AND SESSIONS JUDGE (RETD.)  
ER. ASHOK KUMAR GARG, C.E. (RETD.), MEMBER  
(ADMINISTRATIVE/TECHNICAL)**

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**JUDGMENT: (Sh. Mahesh Grover (Retd.), Chairman)**

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1. This is an appeal whereby the appellant questions the proceedings initiated by the Real Estate Regulatory Authority Punjab (hereinafter known as the Authority) under Section 59 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter known as the Act).
2. The proceedings under Section 59 of the Act ~~was~~<sup>were</sup> initiated by the Authority, after it received a complaint that the





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appellant was engaged in unauthorized development of a project titled as 'City of Dreams' in village Nabha, High Ground Road, Zirakpur. It was brought to the notice of the Authority through this complaint that booking/sale of units was being carried out without the project being registered with the Authority.

3. To establish the veracity of the complaint, the Authority constituted a team to visit the site on 16.04.2021. The report is as below:-

*" A project namely "City of Dreams" developed by M/s SBP Developers on area 19 Acres. The boundary wall constructed, the construction of commercial shops is under process and the flags having the promoter name installed on the boundary of this project area. There is no sales office located at the site but a sale officer of the said promoter was available at the project site. He informed us that you may contact or visit the sales office of this promoter located in project "Gateway of Dreams".*

*Accordingly, we visited the sales office and discussed about the facts and sales activity related to this project with the representative. The sales officer admitted that they have launched the residential area of this project on 5 January 2021 and commercial area on 1 April 2021 and also stated that 95% inventory of 2*



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*BHK flats already booked and got Rs.5 Lac per unit and issued Letter of Intent to each allottee. The sales officer stated that they have applied for RERA registration and will obtain the same in October 2021 (also mentioned in the Brochure). During the discussion they were unable to produce the copy of approvals granted by the Competent Authorities and admitted that entire project is proposed and also advise us to visit their Head Office located in Sector 82 Mohali for the clarifications about approvals. Then we visited their Head Office and an employee of the said promoter given the same statement as stated by the sale officer. He further stated that all the approvals are with RERA, Authority and they are not able to produce the same. The voice recordings of the discussion with the sales officer and at their Head office is enclosed in CD and the photographs of this project site are placed at Flag 'A'. this project is not registered with this Authority."*



4. The Authority concluded that the above report clearly establishes violation of Section 3 of the Act and thus proceeded to issue notice under Section 59 of the Act on 23.04.2021 seeking the appellant's explanation for prima facie having violated the provisions of the Act and regulations framed thereunder.



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5. The appellant responded, to contend that it was a reputed developer/promoter having initiated and concluded several residential and commercial projects and that it had applied for regularization of the colony under the Government Policy of 2008 and a regularization certificate was granted on 13.05.2021 by the competent authority i.e. Deputy Director Local Government, Patiala. It was pleaded that the Authority had issued the impugned notice while the application for regularization was under consideration and that he had acted in a bona fide manner and the violation of the Act was merely on account of the delay in obtaining the regularization certificate.
6. The Authority was assured that the sale/booking of units will be strictly in accordance with law and an issue was also raised that the project was being developed by M/s SBP Township Private Limited but no notice had been issued to this entity.
7. Vide its order dated 13.07.2021, the Authority concluded against the appellant and held that initial report of the team deputed by it and the material produced by the appellant during the hearing were enough to establish that there were violation of Section 3 of the Act, since in



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the absence of registration of the project, the appellant had issued a brochure detailing the price of residential apartments, the payment schedule, the architectural plan as well as the site plan of the entire project. The name of the promoter had not been specified but the project was shown as being developed by SBP. Some units had been booked and there was advertisement of the project. Most of these facts were not denied by the counsel representing the appellant as observed by the Authority.

8. As far as the question <sup>non</sup> of issuance of notice to SBP, Township Private Limited is concerned the Authority noticed that the land vested in this entity on 11.05.2021. Before this General Power of Attorney dated 04.03.2021 had been executed in favour of the appellant i.e. M/s Singla Builders and Promoters Limited, the same entity to which the notice was addressed on 23.04.2021. Thus when the notice was issued, it was the appellant who was the relevant party and none other. Besides in its reply the appellant himself admitted that SBP Township Private Limited is an affiliate of M/s Singla Builders and Promoters Limited. The argument of the appellant in this regard was therefore rejected. In conclusion, the





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Authority imposed a penalty of Rs.1 crore, which is now the cause of grievance to the appellant.

9. In appeal before us, the whole thrust of the argument from the initial stage has been that principles of natural justice stood violated, inasmuch as the material used against the appellant was not shown to him nor he was confronted with it. The report as also the records of the decoys was never supplied to the appellant so as to either establish accept or deny the contents thereof.
10. On 26.10.2021, we had noticed this contention of the appellant i.e. that the report, CD (recorded conversation between the representative of the RERA and the Sales Officer) are neither on record nor was the appellant confronted with them at any stage of the proceedings even though this material had been used extensively against him to arrive at a conclusion and summoned the record of the Authority and on receipt thereof permitted its inspection to the appellant but recorded our prima facie impression of the violation of Section 3 of the Act.
11. We did not however, conclusively observe in this regard and decided to examine the contentions of the appellant regarding violations of principles of natural justice.





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12. In order to allay misgivings of any miscarriage of justice we solicited report from the Authority with regard to i.e. whether the <sup>appellant 30</sup> ~~apela~~int was not made aware of the material used against him.
13. An Officer conversant with the facts of the case from the Authority was asked to remain present. Certain flexibility was given to the appellant in depositing a total amount of Rs.50 lacs by way of a compliance of Section 43(5) of the Act because of the peculiar facts of the case, where the interest of the allottee was not directly at stake.
14. During the pendency of the proceedings when the report had been submitted under our orders, the appellant stated that application under Section 3 of the Act is pending before the Authority but is not being processed on account of the pendency of the present proceedings and also for the reason that the amount determined by the Authority i.e 1 crore has not been deposited by the appellant, whereafter we directed him to deposit the remaining amount and directed the Authority to consider and dispose of the application under Section 3 of the Act within a period of one month of the deposit.
15. On 24.02.2022, no one appeared on behalf of the appellant while Mr. Jaspal Singh Khara, Assistant



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Manager, Real Estate Regulatory Authority, Punjab apprised the Court that the entire amount had been deposited by the appellant and the project stood registered.

16. In view of this statement as also the non-appearance of the appellant, we dismissed the appeal for want of prosecution, which resulted in an application for restoration, where a plea of a default in the office of the learned counsel for the appellant was raised, as a reason for non-appearance.
17. The prayer for restoration was not opposed by the respondent-authority and thus we allowed the application and restored the appeal to its original number.
18. Learned counsel for the appellant thereafter took one or two adjournments to seek instructions as to whether anything survived in the appeal or not.
19. On 19.05.2022, he apprised his intention to persist with the appeal.
20. We have heard his argument and perused the written submissions made by him.
21. Before we proceed with the issue raised, we notice that the written submissions are not at variance with the ones





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raised before the Authority in the first instance, leading to the passing of the impugned order, as also before us at the time of initial hearing of the appeal. We may sum up the same as below:-

- (i) The material used against the appellant i.e. booking certificate, sale letter or allotment letter are neither on record and likewise no advertisement. In short the material used against the appellant is not on record and he was never confronted with it.
- (ii) The procedure adopted was flawed as noticed Annexure 2 is only a preliminary show cause notice not sufficient to satisfy the ingredients of Section 59 of the Act. The proper show cause notice should have succeeded the preliminary notice with a formal complaint along with annexures.
- (iii) The principles of natural justice were violated as complete documents along with enquiry report were never given to the appellant.



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- (iv) The show cause notice was issued to a wrong entity i.e. to Singla Builders & Promoters but SBP Township Private Limited, who is developing the project were never served.
- (v) The application for registration was already pending at the time of passing of the order.

22. We have heard learned counsel for the appellant and are of the opinion that the plea of documents not being supplied as also the non-issuance of show cause notice after the preliminary notice and all the arguments related to the flawed procedure are without any substance.

23. If, we see the proceedings of 23.04.2021, it was the first notice issued to the appellant, <sup>4.3.21</sup> it records that a notice under Chapter VIII of the Act for imposition of penalty for violation of the provisions of the Act is being separately issued. But in order to avoid any further complications, lest prospective allottees are taken for a ride on the strength of fraudulent promises, the Authority exercised its powers under Section 37 of the Act restraining M/s Singla Builders and Promoters Limited and their





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associates not to undertake any construction that may not have been approved by the competent authority.

24. The promoter was further directed not to sell, advertise, book or offer for sale any plot, apartment or building in the project without getting it registered. This conclusion of the Authority was preceded by appraisal of material/findings of team that visited the site and the representative of the promoter was duly heard at that stage. We would like to extract herebelow the relevant portion of the order noticing all the facts and the factum of appellant's representative being present before the Authority after having been apprised all the issues against him:-

1. *"Complaint regarding illegal construction without obtaining any approval, being carried on the High Ground Road, Zirakpur by M/s Singla Builders and Promoters Limited was received by the Chairperson on 15.04.2021. On its basis, a team of employees of the Authority was deputed to inspect the site. They visited the site on 16.04.2021 and acted as prospective customers with a view to obtaining information about the development being carried out at the site. As per their report the project titled 'City of Dreams' is being developed there by the above promoter on an area of 19 acres. The boundary wall has been raised, construction of shops is under way,*



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*and the project is being advertised through hoardings and flags erected by the promoter. The sales representative of the promoter was available at site. He guided the team to the sales office of the promoter where they were told that the residential component of the project was launched on 05.01.2021, and the commercial component on 01.04.2021. It was also informed that 95% of the 2 BHK flats had already been booked on payment of Rs. 5.00 Lakhs each. The representative of the promoter was however unable to produce any approvals, but guided the Authority's team to the promoter's head office in Sector 82, Mohali. The representative at this office also could not produce any approvals but said that they had been submitted to this Authority. Photographs of the site, voice recordings of the conversation held by the team with the promoter's representative, and a brochure relating to the project that was made available to them has also been submitted by this team. The brochure has complete details of the project, the floor plans of various types of units available therein, the price lists, and also the payment plans applicable.*



2. *The matter has been considered and it prima facie appears to be a serious violation of not only the Real Estate (Regulation and Development) Act, 2016 (hereinafter called as Act) but also the Punjab Apartment and Property Regulation Act, 1995. The representative of the promoter were unable to produce any documents showing that the promoter*



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*had obtained even the basic approvals e.g. Change of Land Use (CLU), License to develop a Colony etc. The record of this Authority has also been examined and no application for registration of a project titled 'City of Dreams' at Zirakpur has been received. The promoter has registered a project by the same name but that is in village Sante Majra, Kharar. The brochure mentions the date of possession as '2 years from the date of RERA'. It also further mentions expected RERA date: 30<sup>th</sup> October 2021'. The clearly is a misrepresentation, since no application has yet been filed, and is clearly an attempt to lure innocent and unsuspecting members of the public to invest in an unapproved Colony.*

25. The findings of the team sent by the Authority, which visited the site on 16.04.2021 duly acknowledged and conforms to the material, with which the appellant was confronted with during the proceedings before the Authority on 23.04.2021. He cannot therefore say that he was caught unawares.

26. Not only was the project unregistered, the team constituted by the Authority, which inspected the site on 16.04.2021 reported that no project by the name of "City of Dreams" at Zirakpur has been registered nor an application received by the Authority in this regard but a project by the same name stood registered in Village



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Santemajra, Kharar. The brochure mentioned the date of possession as two years from the date of RERA and expected RERA date as 30.10.2021. The brochure is on record and the appellant has had the occasion before the Authority as also before us to look into it. Besides, it is his own document and this singular material goes on to establish a complete misrepresentation to the general public and an attempt to lure them into investing in an unapproved colony and hence a complete manifestation of an intended fraud.

27. Merely, because the appellant states that principles of natural justice were violated would not ipso facto lead to a presumption of a flawed procedure unless prejudice manifests itself from such violation as alleged. The appellant was clearly on notice regarding all the issues/ deficiencies and violations committed by him. He has been unable to deny the factum of issuance of brochure, construction of a boundary wall and shops that were under way; factum of advertisement through hoardings and presence of sale representatives and the fact that 95% of the 2BHK flat had been booked <sup>on 30</sup> to the payment of Rs.5 lacs each and that too when the project had neither been registered nor any approval obtained.





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28. In fact the action of the Authority has to be appreciated as it has acted with promptitude and shown great alacrity, which is expected of it, otherwise the unscrupulous promoters could very well have created a situation of a fraudulent project, duping several people.
29. The Authority need not wait for the axe to fall and therefore the procedure adopted by it cannot be termed to be wrong in the present set of circumstances, when the appellant was duly put on notice for various defaults and he through his representatives not only responded to it but also appeared before the Authority to contest it before the order dated <sup>13.07.2021</sup> ~~23.04.2021~~ was passed.
30. Section 35 of the Act empowers the Authority to either suo moto or on a complaint through an order in writing and recording reasons call upon the promoter to furnish in writing such information or explanation relating to its affairs and even appoint one or more persons to make an enquiry in relation to such affairs of the promoter. In the present case, even if strictly speaking Section 35 was not resorted to but the Authority <sup>is</sup> still within its right to send a fact finding team given the nature of complaint, where sale/booking of flats was being done against a non-existent project. No doubt, procedures are meant to lend



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fairness and transparency to a quasi-judicial process but every procedural deviation cannot lead to a conclusion of unfairness, partiality or prejudice. The facts of the case indicate that the Authority acted on a complaint and collected viable information, which was then compressed into a notice detailing the entire information gathered through the fact finding team, to put the appellant on notice thereof. Each and every illegality committed by the appellant was noticed in the proceedings on 23.04.2021. A hearing was granted to the appellant and its representatives instead of offering any explanation virtually conceded all that was recorded in the order. No request was made regarding any material being withheld from him and it is only before us that it was argued that contents of the CD and the conversation transcripts were not shown to him. Even if that be so, the fact remains that a brochure was issued giving complete misrepresentation of facts regarding a non-existent/not registered project, while a project by the same name stood registered at a different place.



31. To our minds this is a clear indication not only of fraud but establishes a complete violation of the provisions of Section 3 of the Act, which the appellant has been unable



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to deny de hors other assertions of his regarding violation of principles of natural justice. Even, if we assume that there was some material not supplied to the appellant but used against him, then also he cannot escape the consequences of a penalty under the Act, keeping in view the singular fact of misrepresentation regarding a project and its non-registration.

32. Moreover Section 59 talks of imposition of penalty in the event of violation of Section 3 of the Act, which to our minds stood clearly established independently of any other related issues and alleged procedural violations. Consequently, the appellant cannot even raise this plea of procedural irregularities because violation of Section 3 stood established from the brochure distinct from the other defaults and sufficient to invite proceedings of penalty under the Act.

33. We are constrained to state that a notice for imposition of penalty was separate to the one than the order passed on 23.04.2021 and this fact is noticed therein. So therefore, the appellant cannot plead violation of the principles of natural justice successfully, when it is conceded by him that he filed his reply on 04.06.2021 to the notice under Section 59(1), which had noticed all the deficiencies. In



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this reply he never raised a plea that some material, which was being used against him should be supplied to him. Such a plea has to be raised when reply to show cause notice is filed or even before but evidently the whole material used against him was to his knowledge and it is for this reason, ostensibly that he did not make any request for supply of material or documents that he thought were deficient or required by him for responding to the allegations. The order imposing penalty dated 13.07.2021 also notices in extenso the report of the team dated <sup>16.04.2021</sup> ~~16.07.2021~~; the finding of the violation of Section 3 of the Act and the procedure adopted by the Authority before the order dated 13.07.2021 was passed. There is thus no substance in the arguments raised regarding flawed procedure or violation of principles or the non-supply of relevant material to the appellant before the impugned order was passed.



34. Insofar as the plea that the notice was <sup>not</sup> issued to M/s SBP Township Privated Limited and to M/s Singla Builders and Promoters Limited, the Authority has given detailed reasons in its order dated <sup>13.07.2021</sup> ~~13.06.2021~~ noticing that a sale deed of 6 Bigha-18 Biswa- <sup>11 1/2</sup> ~~5~~ Biswasi was executed between the land owners and M/s SBP Township Private



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Limited on 11.05.2021 and prior thereto a General Power of Attorney dated 04.03.2021 had been executed in favour of M/s Singla Builders and Promoters Limited and SBP Township entered the scene thereafter. Moreover it is an affiliate of the appellant, which fact is mentioned by the appellant himself in its reply.

35. Besides, the brochure issued is under the name of SBP i.e. Singla Builders and Promoters. Likewise the photographs and the hoardings also reflect the name of SBP and declares it to be the number one housing company in the Punjab. The project name is "City of Dreams". The sales office under construction also carries the name of SBP. What transpires between the appellant and SBP Township Private Limited, which is now stated to be the entity developing the site is merely an internal arrangement between two closely related affiliates and it is not <sup>a</sup> coincidence that the short-form of both the entities is SBP. This can possibly be an indicator of a deeper fraud and collusion, which might have gone unchecked, had the Authority not acted promptly.

36. We therefore do not find any substance in such an argument. Besides the core issue of the registration of



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the project has now been ensured but the appellants cannot escape its liability of violating the Act.

37. The appeal is not only without merit but is a malicious exercise borne from initial act by the appellants of complete illegality in promoting and trying to push through sales of a project which was unregistered.
38. Dismissed with a cost of Rs.50,000/-, to be deposited before the Real Estate Regulatory Authority, Punjab. File be consigned to record room and a copy of this be communicated to the parties as well as to the Real Estate Regulatory Authority, Punjab.

*Sd/-*  
JUSTICE MAHESH GROVER (RETD.)  
CHAIRMAN

*Sd/-*  
S.K. GARG, D & S. JUDGE (RETD.)  
MEMBER (JUDICIAL)

*Sd/-*  
ER. ASHOK KUMAR GARG, C.E. (RETD.)  
MEMBER (ADMINISTRATIVE/ TECHNICAL)

May 19, 2022  
AN



Certified To Be True Copy  
*[Signature]*  
Registrar  
Real Estate Appellate Tribunal Punjab  
Chandigarh  
15/06/2022



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**BEFORE THE REAL ESTATE APPELLATE TRIBUNAL, PUNJAB,  
AT CHANDIGARH**

**Appeal No. 96 of 2021**

M/s Singla Builders & Promoters Limited

**Versus**

The Real Estate Regulatory Authority, Punjab

**ORDER:-**

In compliance of Section 57 of the Real Estate (Regulation and Development) Act, 2016, you are called upon to comply with the order dated 19.05.2022 passed in Appeal No.96 of 2021 within a period of three months from the date of communication of the order.

You are informed that in case of failure to comply with the aforesaid order, you can be liable to proceedings under Section 64 of the Act (extracted below), for which separate notice would be sent.

*"If any promoter, who fails to comply with, or contravenes any of the orders, decisions or directions of the Appellate Tribunal, he shall be punishable with imprisonment for a term which may extend up to three years or with fine for every day during which such default continues, which may cumulatively extend up to ten per cent. of the estimated cost of the real estate project, or with both."*

*sd/-*  
JUSTICE MAHESH GROVER (RETD.)  
CHAIRMAN

*sd/-*  
S.K. GARG, D & S. JUDGE (RETD.)  
MEMBER (JUDICIAL)

*sd/-*  
ER. ASHOK KUMAR GARG, C.E. (RETD.)  
MEMBER (ADMINISTRATIVE/ TECHNICAL)



May 19, 2022  
AN

Certified To Be True Copy

*T. Shanmugam*  
Registrar  
Real Estate Appellate Tribunal Punjab  
Chandigarh

15-6-2022