



Real Estate Regulatory Authority, Punjab

First Floor, Block-B, Plot No. 3, Sector-18 A, Madhya Marg, Chandigarh – 160018
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1. **Execution Application No.** :- 70/2022 in ADC1789/2020TR-AUTH-0162 of 2020
2. **Name & Address of the Applicant-Complainant (s)/ Allottee** :- Sh. Jaswinder Singh, R/o 162-F, Shaheed Bhagat Singh Nagar, Pakhowal Road, Ludhiana, District Ludhiana, Punjab.
3. **Name & Address of the respondent (s)/ Promoter** :- M/s Omaxe Chandigarh Extension Developers Pvt. Ltd., India Trade Tower, First Floor, Madhya Marg Road, New Chandigarh (Mullanpur), District SAS Nagar, Mohali, Punjab.
4. **Date of filing of Execution Application** :- 26.07.2022
5. **Name of the Project and Address** :- Group Housing (The Lake) situated at Mullanpur, New Chandigarh, SAS Nagar.
6. **RERA Registration No. of Project** :- PBRERA-SAS80-PR0040
7. **Name of Counsel for the Applicant-complainant, if any.** :- Sh. Manpreet Singh Longia, Advocate
8. **Name of Counsel for the respondent, if any.** :- Sh. Arjun Sharma, Advocate
9. **Section and Rules under which order is passed** :- Section 40(1) of the RERD Act, 2016 r.w. Rule 24 of Pb. State RERD Rules, 2017 against order dated 06.08.2021.
10. **Date of Order** :- 26.03.2025

Order u/s. 40(1) of Real Estate (Regulation & Development) Act, 2016 read with Rules 24 of Pb. State Real Estate (Regulation & Development) Rules, 2017.

The present application has been filed by the Applicant for execution of order dated 06.08.2021.

2. This Authority by way of an order u/s. 31 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as the 'Act, 2016') dated 06.08.2021 has held in the case 'Jaswinder Singh Vs. M/s Omaxe Chandigarh Extension Developers Pvt. Ltd.' that the respondent shall be liable to pay interest @ 9.30% per annum w.e.f. 11.03.2019 till a valid offer of possession. For ready reference, relevant extract of order dated 06.08.2021 is reproduced hereunder:-

"i. The respondent is directed to pay interest, as per the provisions of Section 18(1) of the Act, read with Rule 16 of the Punjab State (Regulation and Development) Rules, 2017, as per State Bank of India's highest marginal cost of lending rate (as of today) plus 2% w.e.f. 11.03.2019 (the stipulated date for delivery of possession), on the amount advanced, till the date of offer of valid possession.

- ii. *The complainant would be bound to pay the outstanding amount, if any, before taking possession of the unit. It is made clear that, the interest to be paid by the complainant for any delay in payment as per payment schedule, would also be the State Bank of India's highest marginal cost of lending rate (as of today) plus 2%.*
- iii. *The other reliefs were not pressed, and hence not allowed.*

11. *The complaint is accordingly disposed of as partly allowed. File be consigned to record room and copy of the order be provided to both the parties free of costs"*

3. The Respondent neither handed over the possession to the applicant nor has paid interest. The order passed u/s. 31 of the Real Estate (Regulation and Development) Act, 2016 dated 06.08.2021 was duly served on the Respondent.

4. Accordingly, on 26.07.2022, the present applicant filed the execution application No. 70 of 2022, before Real Estate Regulatory Authority, Punjab (Henceforth referred as Authority) requesting to direct the respondents to comply with the order dated 06.08.2021 passed u/s. 31 of the RERD Act, 2016.

5. In consequence of filing of execution application, a notice was issued to Respondents i.e., M/s. Omaxe Chandigarh Extension Developers Pvt. Ltd. to appear and submit reply. The respondent subsequently filed the reply to the execution application on 27.09.2023. In the reply, it has been stated that the respondent / promoter had preferred an appeal before the Hon'ble Real Estate Appellate Tribunal, Punjab against the order under execution vide Appeal No. 12 of 2023, which was dismissed vide order dated 17.04.2023 and the amount of Rs.24,58,552/- so deposited in the Hon'ble REAT was ordered to be released in favour of the applicant/decree holder. The applicant / complainant accordingly filed an updated calculation sheet dated 11.09.2024 for the period between 11.03.2019 to 11.09.2024 after adjusting the amount of Rs.24,58,552/- so received. This calculation sheet reflects that the balance interest to be payable by the respondent / promoter to the applicant / complainant amounts to Rs.11,66,681/-. The operative part of the order of the Hon'ble REAT dated 17.04.2023 is reproduced herein below:-

"4. Consequently we dismiss the appeal not only on the grounds of delay but also on merits.

5. The amount deposited by the appellant as a measure of compliance of Section 43(5) of the Act be released to the respondent after due verification in accordance with law."

6. During the course of arguments, the learned counsel for the applicant / complainant stated that the respondent has excluded the tax/GST from the amounts paid by the complainant / applicant. Learned counsel for the complainant / applicant has also submitted his written submissions, reiterating the exclusion of Tax/GST from the amounts paid by the complainant/ applicant by the respondent. It was further submitted that the respondent/promoter is liable to pay interest amount on the

entire amount paid by the applicant / complainant including Service Tax/GST. *Per contra*, it was argued by the counsel for the respondent that the amount of GST received by the respondent from the complainant has been deposited with the Government / relevant authorities; therefore, the respondent is not liable to pay any interest on the same. The applicant / complainant pleaded that the aforesaid proposition of law has already been adjudicated upon by the Hon'ble Punjab and Haryana High Court in RERA Appeal No. 95 of 2021 titled '**Emaar India Ltd. vs. Kaushal Pal Singh**' along with connected Appeals decided on 23.05.2022. In support of his contention for payment of interest on the entire amount, he has referred to para 10 of the above said judgment (*supra*), in which it is held that "**Such interest for every month of delay is payable on the entire amount paid by the allottee**"....."**The interest shall be payable on the complete amount paid by the allottee to the promoter.**". The para 10 of the said judgment is reproduced hereunder for reference:-

"10. On a careful reading of the proviso to Section 18(1) of the 2016 Act, it is evident that an allottee who does not intend to withdraw from the project, is entitled to be paid by the promoter the interest for every month of delay till the delivery of possession at such rate as may be prescribed. It is in the nature of damages or compensation for delay in delivery of the possession of the apartment/unit. **Such interest for every month of delay is payable on the entire amount paid by the allottee.** The interest has been defined in Section 2(z) of the 2016 Act. Explanation(i) of Section 2(Aa) of the 2016 Act provides that in case of default, the interest is payable by the promoter to the allottee at the rate equal to the rate of interest as shall be prescribed in this behalf. Explanation (ii) Section 2(Za) of the 2016 Act provides that the interest shall be payable to the allottee from the date the promoter received the amount or any part thereof. The proviso to Section 18(1) of the 2016 Act clearly enables the authority to compensate the allottee for the losses suffered on account of delay in delivery of possession by the promoter. **The interest shall be payable on the complete amount paid by the allottee to the promoter.** The learned counsel representing the appellant has failed to draw the attention of the Court towards any statutory provision prohibiting the payment of interest on the amount of H-VAT, GST, EDC etc. under proviso to Clause (1) of Section 18 of the 2016 Act to the allottee. Section 2(g) of the 1975 Act defines the external development works. Section 3(3)(a)(ii) of the 1975 Act provides that the owner who wants to develop his land into a colony is liable to pay the proportionate development charges. In other words, the liability to pay the amount is on the licensee (owner-promoter)."

[Emphasis supplied]

7. The Authority in its order dated 06.08.2021 has observed in para 1 that the complainant had paid an amount of Rs.70,87,455/- under construction link plan opted by him. Further, the Authority in its order in sub para 1 of para 10 of has held as follows:-

(i) The respondent is directed to pay interest, as per the provisions of Section 18(1) of the Act, read with Rule 16 of the Punjab State (Regulation and Development) Rules, 2017, as per State Bank of India's highest marginal cost of lending rate (as of today) plus 2% w.e.f. 11.03.2019 (the

stipulated date for delivery of possession), on the amount advanced, till the date of offer of valid possession.

8. The respondent has not taken any issue regarding payment of interest only on the net amount amounting to Rs.70,87,455/- advanced by the applicant / complainant after deducting GST. This Authority has held that interest on delayed possession is to be paid till a valid offer of possession is given by the respondent. Therefore, in light of the aforementioned facts, circumstances and legal position, the objection raised by the respondent is dismissed. The interest for every month of delay is payable on the entire amount paid by the allottee. Further, the respondent / promoter has not issued the demand letters / receipts of the payment demanded giving the breakup of amount received and GST separately. The whole amount has been received as a single sum advanced in absence of breakup in the letters raising demands and the plea of the respondent for taking out GST for the purpose of payment of interest is also rejected on this ground. Hence, the execution application deserves to be succeeded and the applicant / complainant are entitled to the payment of interest on the entire amount. Thus, the objections raised on behalf of the respondent are without any merit and the relief sought by the applicant / complainant is accepted.

9. We have duly considered the order passed u/s 31 dated 06.08.2021; the application filed by the complainant/ applicant; reply filed by the respondent/ promoter and arguments of the counsel of the parties. In view of the above factual matrix and based on the written and oral submissions of the applicant & respondent and the material available on record, it is held that the respondents had failed to comply with the orders passed u/s. 31 of the Real Estate (Regulation and Development) Act, 2016 dated 06.08.2021. In these circumstances, the respondent is directed to pay delayed interest on the principal amount i.e. Rs.70,87,455/- paid by the applicant w.e.f. 11.03.2019 till a valid offer of possession is made as per order u/s 31 of RERD Act, 2016. The payment has been calculated on the whole month basis. The period for payment of interest will be considered from the next month in which payment was effected by the allottee to the previous month of the date in which payment has been effected by the promoter. The details of payment made and interest accrued thereupon is given as under:-

Principal Amount	Period (in months)	Delay of months	Interest rate (@ 7.30% SBI's Highest MCLR Rate + 2%)	Interest amount due Upto 31.03.2025	Interest Paid	Balance interest payable after receiving amount in view of REAT order
A	B	C	D	E	F	G
Rs.70,87,455/-	(01.04.2019 to 31.03.2025)	72 months	@9.30%	Rs.39,54,800/-	Rs.24,58,552/-	Rs.14,96,248/-

10. It is an undisputed fact that an amount of Rs.24,58,552/- deposited by the respondent as part of pre-deposit before the Hon'ble Tribunal at the time of filing of appeal was duly disbursed and received by the applicant / decree holder. Therefore, balance arrears of delayed interest accrued on it till 31.03.2025 to be payable by the respondent amounts to Rs.14,96,248/- (Rs.39,54,800/- minus Rs.24,58,552/-). Thus, the amount due upto 31.03.2025 amount to Rs.14,96,248/- and the respondent is directed to make the payments immediately. No further time is granted since the order u/s. 31 of the RERD Act, 2016 was passed on 06.08.2021 and the respondent was directed to make the said payment within 90 days of the order. The deposit of requisite amount before filing of appeal by the respondent before the Hon'ble Real Estate Appellate Tribunal, Punjab does not stop the accrual of interest on the amount deposited in the case of delayed possession. The said interest continues accrue and becomes payable, if the order passed u/s 31 and / or Section 40(1) of the Real Estate (Regulation & Development) Act, 2016 is upheld which has determined the interest payable u/s 18 of the RERD Act, 2016 on delayed possession.

11. Further, the respondent will make payment of Rs.54,928/- per month for the delayed period from 01.04.2025 on account of interest on delayed period. The respondent i.e. M/s. Omaxe Chandigarh Extension Developers Pvt. Ltd. is therefore held liable for an amount of Rs.14,96,248/- as on 31.03.2025 and further in addition of Rs.54,928/- as interest will be added per month till the valid offer of possession is effected. Both the parties are directed to inform the authority recovering land revenue authorized under the Punjab Land Revenue Act, 1887 as soon as valid offer of possession is made. Further, Sh. Jaswinder Singh is held as Decree Holder and M/s Omaxe Chandigarh Extension Developers Pvt. Ltd. as Judgment Debtor for the purposes of recovery of the amounts due as calculated in the table supra. The amount of Rs.14,96,248/- interest payable upto 31.03.2025 and further a sum of Rs.54,928/- per month from 01.04.2025 onwards is held as "Land Revenue" under the provisions of Section 40(1) of RERD Act, 2016 read with Rule 24 of the Punjab Real Estate (Regulation & Development) Rules, 2017. The said amounts are to be collected as "Land Revenue" under the provisions of Punjab Land Revenue Act, 1887 and Punjab Land Revenue Rules, 1909 by the authorities prescribed /authorized under the said Act and Rules.

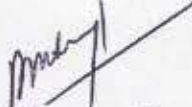
12. The recovery may be effected accordingly. The respondent is further directed to handover the due possession at the earliest. The Secretary of this Authority is hereby directed to further issue the Debt Recovery Certificate and send it to the jurisdictional authority authorized under the Punjab Land Revenue Act, 1887

for recovery as Debt of Land Revenue and further necessary action. The DRC may specifically mention that the amount of Rs.54,928/- per month will be added in addition to Rs.14,96,248/- till a valid offer of possession is made and the application to stop addition of Rs.54,928/- is accompanied by "Letter of Offer of Possession". In case of any doubt, the matter regarding accuracy and correctness of offer of possession and / or charging / stopping charging of Rs.54,928/- may be referred back by the said Authorities to the Real Estate Regulatory Authority, Punjab through its Secretary.

13. In the result, the execution application is **allowed**.

Chandigarh

Dated: 26.03.2025



(Binod Kumar Singh)
Member


(Arunvir Vashista)
Member


(Rakesh Kumar Goyal)
Chairman

A copy of the above order be sent to the followings for further necessary action:-

1. M/s Omaxe Chandigarh Extension Developers Pvt. Ltd., India Trade Tower, First Floor, Madhya Marg Road, New Chandigarh (Mullanpur), District SAS Nagar, Mohali, Punjab.
2. Sh. Jaswinder Singh, R/o 162-F, Shaheed Bhagat Singh Nagar, Pakhowal Road, Ludhiana, District Ludhiana, Punjab 3. The Secretary, RERA, Punjab.
3. Secretary
4. Director (Legal), RERA, Punjab.
5. The Master File.
6. The Record File.


(Sawan Kumar),
P.A. to Chairman
RERA, Punjab.