REAL ESTATE REGULATORY AUTHORITY
HIMACHAL PRADESH

Execution Petition No. PET2024006

IN THE MATTER OF:-

1 Smt. Sita Devi wife of Sh. Satya Pal Nandrajog, resident of House no. 48 Dashmesh Colony Rajpura-Distt Patiala-140401

2 Sh. Satya Pal Nandrajog son of Late Phula Ram, resident of House no.48 Dashmesh Colony Rajpura-Distt Patiala-140401

.... Decree Holder(s)

Versus

M/s Ahlawat Developer and Promoters through its managing partner Sh. Jagjit Singh Ahlawat and Smt. Suman Ahlawat, resident of Khasra no 602-611,opposite Dr .Reddy Plant, Malku Majra, Baddi H.P. 173205 and Kothi no 46, Sector 10, Panchkula, Distt. Panchkula (HR).

........Judgment debtor

Present:- Sh. Atul Pundir, Ld. Counsel represented for the decree holder(s)
Sh. J.S. Ahlawat, judgment debtor present in person

Final date of hearing:- 06.09.2025
Date of pronouncement of order:-15.10.2025

Interim Order
Coram:- Chairperson and Members

1. **Contents of the Objections-**

The Judgment Debtor (JD)/Promoter has raised multiple objections against the execution of the order, contending that the Decree Holder (DH) is not entitled to further refund or compensation in equity or law, as she has already enjoyed possession and reaped substantial monetary benefits from the flat. Firstly, it is emphasized that the physical possession of Flat No. 403, Tower A-1, "Himachal One", Baddi was handed over to the DH in November 2012. Thereafter, she received assured rentals of Rs. 3,59,000/- between June 2011 and April 2014 directly from the JD. After possession, the DH repeatedly rented out the property — initially to M/s Excellent Corporate Hospitalities, Hyderabad (April 2015 to May 2016), and later to M/s Oakville Corporate Hospitalities & Services LLP (March 2020 to July 2022), collecting rents of Rs. 1,89,000/- and Rs. 2,21,000/- respectively. Throughout this period, she projected herself as the sole owner and landlord of the property. Secondly, the DH also secured compensation of Rs. 5,00,000/- from the District Consumer Disputes Redressal Commission, Solan. According to the JD, this compensation was obtained by suppressing material facts regarding her possession and rental income, thereby amounting to fraud on the Commission. When all these amounts are aggregated, the DH has already received Rs. 12,69,000/- apart from enjoying possession and use of the flat for over a decade. On this basis, the JD argues that double recovery. Thirdly, the JD highlights that the DH has never paid maintenance and electricity charges since December 2012, except for the short duration when her tenant directly paid them. These charges, calculated at Rs. 5,59,608/-, remain outstanding against her. Despite repeated letters from the JD in October and November 2024 offering refund of the balance after deducting these dues and requiring return of keys, the DH failed to comply. On calculation, while the gross refund liability stands at Rs. 20,79,121/- (including interest as per the Authority's earlier order), after adjusting rentals and dues of Rs. 11,07,608/-, only Rs. 9,71,513/- remains payable. Fourthly, the JD points out that execution of conveyance deeds in respect of non-Himachali allottees was contingent upon permission under Section 118 of the HP Tenancy & Land Reforms Act, 1972 — a sovereign function of the State Government. Despite repeated communications by this Authority to the Deputy Commissioner, Solan, and the Principal Secretary (Revenue), such permission was never granted.

The JD contends that neither he nor the Authority can be blamed for delay or denial of this statutory permission. Finally, the JD alleges that he has been selectively targeted because of the Justice D.P. Sood Commission of Inquiry report (2012), which had named 62 builders, mostly in Solan. While others have been allowed to execute deeds and continue projects, action was pursued only against him, leading to blacklisting and reputational damage. He contends this was the outcome of a conspiracy involving revenue officials and private individuals, meant to sabotage his Rs. 100 crore project. In light of these objections, the JD asserts that the DH's claim is barred by doctrines of unjust enrichment, res judicata, and election of remedies, and that interest liability cannot be fastened upon him. The only equitable relief, if any, is limited to refund of Rs. 9,71,513/- after proper adjustment of rentals and maintenance dues.

2. Reply to the objections-

The Decree Holders, both senior citizens, have submitted their reply to the objections raised by the Judgment Debtor, pointing out that the final order dated 07.09.2024 was a reasoned and detailed order which has attained finality since it has not been challenged before the appellate forum. As per the said order, the Judgment Debtor was directed either to execute the conveyance deed of the flat or refund the sum of ₹19,00,000/- along with interest @11.10% per annum from 26.04.2023, aggregating to ₹22,33,925/-, to be deposited with HP RERA for withdrawal by the Decree Holders. The Judgment Debtor was granted two months' time till 07.11.2024 to comply, but he has failed to do so and instead filed objections that are frivolous and legally untenable. The Decree Holders submit that the scope of execution is limited to enforcement of a final decree and not to re-open or re-adjudicate issues already decided. The allegations relating to assured rentals, rental income, maintenance or electricity charges, multiple remedies, or personal bias are irrelevant at this stage and amount to abuse of process. The Judgment Debtor's fresh claim for maintenance charges is wholly impermissible because the project is admittedly incomplete, no Occupancy Certificate or Completion Certificate has been issued, and the so-called possession offered is illegal in the eyes of law. It is a well-settled principle reaffirmed by the Hon'ble Supreme Court that maintenance charges cannot be claimed in the absence of valid legal possession with statutory approvals. Thus, any such counterclaim is frivolous and unsustainable. The Decree Holders further submit that the Judgment Debtor's conduct in issuing threatening letters for cancellation of allotment or forcible repossession of the flat amounts to coercion and harassment, especially when the Decree Holders are senior citizens who had invested their post-retirement savings in the project as early as 2011. Instead of complying with the binding decree, the Judgment Debtor has adopted delaying tactics, thereby causing mental agony and undue hardship to the Decree Holders. The Decree Holders reiterate their readiness and willingness to return the keys of the flat strictly upon full and final payment of the decretal amount of ₹22,33,925/- in accordance with the execution order. They submit that the keys shall be deposited in the Executing Court upon directions, and thereafter the decretal amount may be permitted to be withdrawn by them. Any attempt by the Judgment Debtor to claim set-off or adjustment of alleged dues is impermissible, since no such relief was granted in the final order and execution cannot be converted into a trial of fresh claims. The objections are therefore a deliberate attempt to delay justice and undermine the authority's final decision. In these circumstances, the Decree Holders have prayed that the objections filed by the Judgment Debtor be dismissed as misconceived and devoid of merit, that the Judgment Debtor be directed to deposit the full decretal amount with this Authority, that recovery proceedings be initiated as arrears of land revenue through the concerned Tehsildar by creating a charge in favour of HP RERA, and that the Judgment Debtor be restrained from issuing threats or filing repetitive submissions causing harassment. They have further prayed that the

Decree Holders be permitted to return the keys strictly upon confirmed deposit of the decretal amount, and for such other directions as this Authority may deem just and proper in the interest of justice and equity.

3. **Findings –**

Having carefully considered the objections filed by the Judgment Debtor (JD) and the reply of the Decree Holders (DHs), as well as the final order dated 07.09.2024 which is sought to be executed, this Authority records the following detailed findings .At the outset, it is settled law that the jurisdiction of an executing court/authority is confined to execution of the decree as it stands. The Hon'ble High Court of Himachal Pradesh in **Nalagarh Dehati Cooperative Transport Society v. Suraj Mani, 1976 Shimla Law Journal 172** held that the executing court cannot go behind the decree even if erroneous on facts or law. Similarly, the Hon'ble Supreme Court in **Rajasthan Financial Corporation v. Man Industrial Corporation Ltd. (2003) 7 SCC 522** and **Rameshwar Das Gupta v. State of U.P. (1996) 5 SCC 728** reiterated that execution courts must take the decree according to its tenor. Most authoritatively, in **Vasudev Dhanjibhai Modi v. Rajabhai Abdul Rehman (1970) 1 SCC 670**, it was laid down that even an erroneous decree remains binding unless set aside in appeal or revision. Further, in **Mohd. Masthan v. Society of Congregation of the Brothers of the Sacred Heart (2006) 9 SCC 344**, it was held that an executing court cannot entertain pleas of fraud or collusion. Thus, the objections now raised by the JD, which essentially attempt to reopen issues of possession, rentals, maintenance dues, and alleged bias, are wholly impermissible at the execution stage.

4. The JD contends that since physical possession of Flat No. 403, Tower A-1, "Himachal One," Baddi was given to the DH in November 2012, and she thereafter enjoyed rentals from tenants M/s Excellent Corporate Hospitalities and M/s Oakville Corporate Hospitalities, she

is not entitled to refund or further compensation. This contention cannot be accepted. The final order dated 07.09.2024 squarely directed the JD either to execute the conveyance deed or to refund ₹19,00,000/- with interest @ 11.10% per annum from 26.04.2023, aggregating to ₹22,33,925/-. This binding order has not been challenged in appeal and has attained finality. The argument regarding rental income was already pleaded by the JD during the original proceedings (see paras 5 & 9 of the main order). After considering such submissions, the Authority consciously chose to grant refund with interest. Re-agitation of the same issue in execution is barred.

5. Further, as a matter of law, so-called "possession" without an Occupancy Certificate or Completion Certificate is not valid possession. The Hon'ble Supreme Court in Newtech Promoters and Developers Pvt. Ltd. v. State of U.P. MANU/SC/1056/2021 has clarified that the allottee has an unconditional right to refund where the promoter fails to hand over lawful possession with statutory approvals. Any rental arrangements privately entered into cannot divest the allottee of her statutory right to refund under Sections 18 and 19 of the RERA Act, 2016.Accordingly, the objection based on alleged "enjoyment of possession" and rental benefits stands rejected.

6. The JD asserts that the DH never paid maintenance and electricity charges since 2012, amounting to ₹5,59,608/-, and that the same must be adjusted against refund.This plea is untenable. Firstly, the final order of 07.09.2024 did not grant any such adjustment or set-off. Execution cannot be converted into a fresh trial of counterclaims. Secondly, it is undisputed that the project has not obtained Occupancy or Completion Certificate. The Hon'ble Supreme Court and several High Courts have repeatedly held that no maintenance charges are leviable in the absence of valid occupation certificate since possession itself is illegal. The claim is therefore barred in law. Thus, the attempt to rake up maintenance dues in execution proceedings is an abuse of process and stands rejected.

7. The JD points out that the DH had obtained ₹5,00,000/- as compensation from the District Consumer Disputes Redressal Commission, Solan, which according to him was obtained by suppressing facts and amounts to double recovery.This argument again cannot be entertained in execution. If the JD was aggrieved by the award of compensation by the Consumer Forum, the proper remedy was to challenge it before the appellate forum. Unless such order is set aside, it continues to bind the parties. This Authority, while passing the order dated 07.09.2024, was aware of the consumer proceedings and yet chose to grant refund with statutory interest. Therefore, the present objection is nothing but an attempt to re-litigate. Moreover, the doctrines of res judicata and finality of judgments bar this Authority from reopening such issues.
8. The JD argues that execution of conveyance deed was contingent on statutory permission under Section 118, which was not granted, and therefore he cannot be held liable.This plea is equally meritless. The final order specifically recorded that despite submission of documents, no sale deed had been executed for years. Applying the ratio of Newtech Promoters (supra), the Authority held that the allottee's right to refund is unqualified and cannot be defeated by contingencies such as refusal or delay of statutory permission. Thus, the liability to refund with interest squarely rests upon the JD.The JD's allegations that he was targeted because of the Justice D.P. Sood Commission of Inquiry report and blacklisted due to conspiracy are wholly irrelevant in execution. Execution proceedings cannot adjudicate allegations of mala fides or discrimination; they are confined to enforcement of the decree. This plea is therefore rejected outright.
9. The JD contends that the DH's claim is barred by unjust enrichment, res judicata, and election of remedies. This objection is misconceived. On the contrary, it is the JD who is attempting to invoke res judicata after the decree has already attained finality. The principle of unjust enrichment applies against the promoter who has retained both the money and failed to deliver lawful possession. The plea of election of

remedies is also inapplicable since under Section 88 of the RERA Act, remedies under consumer law and RERA are concurrent and cumulative.

10. The sum and substance of the matter is that the final order dated 07.09.2024 directed refund of ₹19,00,000/- with interest @ 11.10% per annum from 26.04.2023 till realization, aggregating to ₹22,33,925/-, to be deposited with HP RERA. This order is binding. None of the objections raised by the JD can dilute or modify the decree. All pleas of rentals, maintenance, consumer compensation, Section 118 permissions, or bias are outside the scope of execution.

11. Accordingly, all objections filed by the Judgment Debtor are dismissed as frivolous, misconceived, and legally untenable. The JD is directed to forthwith deposit the decretal amount of ₹22,33,925/- with this Authority, failing which coercive recovery shall be initiated as arrears of land revenue by the concerned Tehsildar by creating a charge in favour of HP RERA. The DHs shall deposit the keys of Flat No. 403, Tower A-1, "Himachal One," Baddi, in this Authority upon confirmed receipt of the decretal amount, where after the same may be withdrawn by the them. The JD is further restrained from issuing any threats, repetitive objections, or harassing communications to the DHs.

(Amit Kashyap)	**(R.D. Dhiman)**	**(Vidur Mehta)**
MEMBER	**CHAIRPERSON**	**MEMBER**