

Office Order

Order No.:9/1-2022HARERA/GGM/(Admin)

Date:16.03.2022

1. Whereas section 40 (2) of the Real Estate (Regulation and Development) Act, 2016 provides as under:

"If any adjudicating officer or the Regulatory Authority or the Appellate Tribunal, as the case may be, issues any order or directs any person to do any act, or refrain from doing any act, which it is empowered to do under this Act or the rules or regulations made thereunder, then in case of failure by any person to comply with such order or direction, the same shall be enforced, in such manner as may be prescribed."

2. Whereas rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017 prescribes the enforcement of order, direction or decision of adjudicating officer, Authority or Appellate Tribunal and reads as under:

27(1) "Every order passed by the adjudicating officer or the Authority or the Appellate Tribunal, as the case may be, under the Act or rules and the regulations made thereunder, shall be enforced by an adjudicating officer or the Authority or Appellate Tribunal in the same manner as if it were a decree or a order made by a civil court in a suite pending therein; and it shall be lawful for the adjudicating officer or the authority or the Appellate Tribunal, as the case may be, in the event of its inability to execute the order, send such order to the civil court to execute such order".

3. Whereas section 81 of the Real Estate (Regulation and Development) Act, 2016 empowers the authority, delegation of its powers and functions under the Act except the powers to make regulations under section 85 reads as unde :

81 "the Authority may, by general or special order in writing delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to make regulations under section 85), as it may deem necessary"

4. Whereas section 38 of the Code of Civil Procedure, 1908 provide for court by which decree can be executed and section 39 of Code of Civil Procedure, 1908 provides the provision for transfer of decree.

Section 38 of Code of Civil Procedure reads as under:

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Sec. 38 Court by which decree may be executed: A decree may be executed either by the court which passed it, or by the Court to which it is sent for execution.

Section 39 of the CPC reads as under:

Sec. 39 (1) The Court which passed a decree may, on the application of the decree holder send it for execution to another court of competent jurisdiction

- a. *If the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other court, or*
- b. *If such person has no property within the local limits of the jurisdiction of the court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other court, or*
- c. *If such decree directs the sale or delivery of immovable property situate outside the local limits of the jurisdiction of the court which passed it, or*
- d. *If the court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other court.*

(2) The Court which passed a decree may of its own motion send it for execution to any subordinate Court of competent jurisdiction.

1[(3) For the purposes of this section, a Court shall be deemed to be a Court of competent jurisdiction if, at the time of making the application for the transfer of decree to it, such Court would have jurisdiction to try the suit in which such decree was passed.]

2[(4) Nothing in this section shall be deemed to authorise the Court which passed a decree to execute such decree against any person or property outside the local limits of its jurisdiction.]

5. Haryana Real Estate Regulatory Authority, Gurugram in exercise of powers conferred on it under section 81 of the Real Estate (Regulation and Development) Act, 2016 read with section 38 and 39 of the Code of Civil Procedure, 1908 hereby delegate powers upon adjudicating officer of the Haryana Real Estate Regulatory Authority, Gurugram to hear and execute the execution application with respect to the complaint already heard, decided, and disposed of by the authority.



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM - 3-

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

6. Registry is directed to transfer execution applications files and list the execution applications before the adjudicating officer of the authority.
7. This issues as per approval of the authority.

Secretary

Haryana Real Estate Regulatory Authority
Gurugram

Copy To:

PS to Chairman
OSD to Chairman
PS to Member
Adjudicating Officer
L.O, Legal (Complaint) Branch
Registry, Legal (Complaint) Branch
Notice Board

