



2026:AHC-LKO:10218-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 1328 of 2026

Domus Greens Pvt. Ltd. Thru. Legal Manager Mr. Arpit
Sharma

.....Petitioner(s)

Versus

Registrar, U.P. Real Estate Appellate Tribunal Thru.
Registrar, And 5 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Chanchal Singh
Counsel for Respondent(s)	:	C.S.C., Shobhit Mohan Shukla

Court No. - 1

**HON'BLE RAJAN ROY, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.**

(Order on Amendment Application)

1. Heard.
2. This is an application for amendment in memo of the writ petition duly supported by an affidavit.
3. We have gone through the affidavit filed in support of application for amendment. We permit the petitioner to carry out the necessary amendment during course of the day.
4. Accordingly, the amendment application is **allowed**.

(Order on Memo)

1. Heard.
2. By means of this writ petition, the petitioner has prayed for the following main relief(s) :-

"(1). Issue a Writ, order or direction in the nature of Certiorari, quashing the impugned Recovery Certificate dated 13.10.2025 and order dated 08.01.2024 as contained in Annexure no.1 and 2 respectively to the Writ petition.

(2). Issue a Writ, order or direction in the nature of Mandamus, commanding and directing the Opposite party no.1 to allow the petitioner to deposit the bank demand draft numbered '001724' dated 12.01.2026 amount 10,90,673.00 (Ten lakh ninety thousand six hundred seventy three only) in

compliance of Section 43(5) of the Real Estate (Regulation and Development) Act, 2016, or as may be directed by this Hon'ble court.

(3). Issue a Writ, order or direction in the nature of Mandamus, commanding and directing the Opposite party no.1 to consider and decide the exemption application moved by the petitioner having its IA Filing no. 0901126003912026 in a time-bound manner.

(4). Issue a Writ, order or direction in the nature of Mandamus, thereby staying the operation and implementation of impugned Recovery Certificate dated 13.10.2025 as contained in Annexure no.1 during the pendency of the appeal filed by the petitioner.

(4.1) To issue a writ, order or direction in the nature of certiorari to set aside the order/letter dated 04.02.2026 passed by the opposite party no.6 so far as it relates to bank accounts operational in bank.

(4.2) To issue a writ, order or direction in the nature of mandamus commanding the opposite party no.5 and 6 to allow the petitioner to operate its bank accounts operational in the bank as earlier it was.

(4.3) To issue a writ, order or direction in the nature of mandamus directing the opposite party no.2 to retain the recovered amount with itself or with opposite party no.1 during the pendency of the appeal."

3. At the very outset, counsel for the petitioner has submitted that he does not press the relief claimed for deposit of only 30% of the due amount and is ready to deposit the 100% amount.

4. After hearing the petitioner's counsel and Shri Shobhit Mohan Shukla, learned counsel appearing for Uttar Pradesh Real Estate Regulatory Authority, what comes out is that against the order passed on the complaint adjudicated by U.P. RERA, as filed by opposite party no.3 and 4, an appeal has been preferred by the petitioner, however, the statutory deposit as envisaged under Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the Act, 2016') has not been complied as yet. The reason for it as claimed by the petitioner is that in the interregnum in execution proceedings initiated at the behest of opposite party no.3 and 4, the Sub Divisional Magistrate has passed an order and as has attached all the bank accounts of the petitioner, on account of which, the petitioner is unable to satisfy the statutory requirements as

contained under Section 43(5) of the Act, 2016.

5. As per the proviso to Section 43(5) of the Act, 2016, 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 30% of the penalty, or such higher percentage as may be determined by the Appellate Tribunal, 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.

6. According to Shri Shobhit Mohan Shukla, learned counsel appearing for U.P.R.E.R.A., in the case of the petitioner, 100% of the amount under the judgment rendered has to be deposited.

7. Looking into the scenario before us, limited interference to the extent that if a cheque or demand draft is issued by the petitioner in favour of U.P. Real Estate Appellate Tribunal for discharge of the statutory requirement under the proviso to Section 43(5) of the Act, 2016, so that the appeal against the judgment passed by U.P.R.E.R.A be entertained, then, the said cheque/Demand Draft shall be honoured by the bank concerned. Subject to this modification, the orders passed by the S.D.M. shall remain as they are, meaning thereby, the petitioner shall not be allowed to use the money deposited in its accounts except to the extent mentioned herein-above.

8. The Additional C.S.C. Shri Raj Bux Singh shall communicate our order to the Sub Divisional Magistrate Sadar, District Gautam Buddh Nagar.

9. We make it clear that our order shall not come in the way of any proceedings pending in respect of the original subject matter whether it be before the Appellate Tribunal or elsewhere, as only a limited interference has been made to facilitate access to justice to the petitioner in terms of the appeal preferred by him.

10. It is also open for the petitioner to seek such relief, as may be permissible in the appeal, which has been filed, if it is otherwise entertainable/maintainable or to move an application before the

revenue authorities for releasing the bank accounts from attachment i.e. once the 100% amount due under the judgment under challenge in appeal is deposited under the proviso to Section 43(5) of the Act, 2016.

11. With the aforesaid observations/directions, petition is **disposed of.**

February 10, 2026
Praveen

(Abdhesh Kumar Chaudhary,J.) (Rajan Roy,J.)