



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

## COMPLAINT NO. 1607 OF 2019

Vidhya Dahiya

....COMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.

....RESPONDENT(S)

**CORAM:**

**Rajan Gupta  
Dilbag Singh Sihag**

**Chairman  
Member**

**Date of Hearing:** 10.03.2022

**Hearing:**

5<sup>th</sup>

**Present: -**

None for the complainant

Ms. Rupali S. Verma, learned counsel for the respondent through video conference

### **ORDER (DILBAG SINGH SIHAG - MEMBER)**

1. While perusing case file, it is observed that relief of possession or in alternative refund has been sought by the complainant in present

complaint. Initially, this Authority had kept sine die all refund cases for more than a year or so on the account of disputes regarding jurisdiction of Authority to deal with such cases. Now law on the question has been settled by Hon'ble High Court and by Hon'ble Supreme Court as well. Besides, same has been endorsed by Hon'ble High Court again vide its orders dated 13.01.2022. This Authority has also passed a resolution No. 164.06 dated 31.01.2022 on the basis of which it has started hearing these complaints whereby relief of refund has been sought. The relevant part of the resolution of Authority is reproduced below:-

“4. The Authority has now further considered the matter and observes that after vacation of stay by Hon'ble High Court vide its order dated 11.09.2020 against amended Rules notified by the State Government vide notification dated 12.09.2019, there was no bar on the Authority to deal with complaints in which relief of refund was sought. No stay is operational on the Authority after that. However, on account of judgment of Hon'ble High Court passed in CWP No. 38144 of 2018, having been stayed by Hon'ble Supreme Court vide order dated 05.11.2020, Authority had decided not to exercise this jurisdiction and had decided await outcome of SLPs pending before Hon'ble Apex Court.

Authority further decided not to exercise its jurisdiction even after clear interpretation of law made by Hon'ble Apex Court in U.P. matters in appeal No(s) 6745-6749 of 2021 - M/s Newtech Promoters and Developers Pvt. Ltd. Versus State of UP and others etc. because of continuation of the stay of the judgment of Hon'ble High Court.

It was for the reasons that technically speaking, stay granted by Hon'ble Apex Court against judgment dated 16.10.2020 passed in CWP No. 38144 of 2018 and other matters was still operational. Now, the position has materially changed after judgment passed by Hon'ble High Court in CWP No. 6688 of 2021 and other connected matters, the relevant paras 23, 25 and 26 of which have been reproduced above

5. Large number of counsels and complainants have been arguing before this Authority that after clarification of law both by Hon'ble Supreme Court as well as by High Court and now in view of judgment of Hon'ble High Court in CWP No.(s) 6688 of 2021, matters pending before the Authority in which relief of refund has been sought should not adjourned any further and should be taken into consideration by the Authority.

Authority after consideration of the arguments agrees that order passed by Hon'ble High Court further clarifies that Authority would have jurisdiction to entertain complaints in which relief of refund of amount, interest on the refund amount, payment of interest on delayed delivery of possession, and penal interest thereon is sought. Jurisdiction in such matters would not be with Adjudicating Officer. This judgment has been passed after duly considering the judgment of Hon'ble Supreme Court passed in M/s Newtech Promoters and Developers Pvt. Ltd. Versus State of UP and others etc.

6. In view of above interpretation and reiteration of law by Hon'ble Supreme Court and Hon'ble High Court, Authority resolves to take up all complaints for consideration including the complaints in which relief of refund is sought as per law and pass appropriate orders. Accordingly, all such matters filed before the Authority be listed for hearing. However, no order will be passed by the Authority in those complaints as well as execution complaints in which a specific stay has been granted by Hon'ble Supreme Court or by Hon'ble High Court. Those cases will be taken into consideration after vacation of stay. Action be initiated by registry accordingly."

2. Since, basic issue of jurisdiction stands settled, therefore, Authority has started hearing those complaints relating to refund which were kept sine die.

3. Facts of complainant's case are that Mr. Rajiv Kumar (original applicant) had applied for residential plot in respondent's project under 'Present and Future Scheme' on 03.11.2009 by paying booking amount of ₹2,24,500/-. Complainant purchased the booking rights from Mr. Rajiv

Kumar and endorsement was made in her favour by respondent vide letter dated 26.02.2010. Vide letter dated 08.06.2010 complainant was informed that plot no. D-145 admeasuring 300 sq. yards was provisionally allotted to her in proposed township 'Parsvnath City, Rohtak'.

In accordance with the payment plan, complainant had paid a sum of ₹22,61,137/- to the respondent till 16.03.2012 against basic sale price of ₹14,96,250/-. Complainant has annexed copies of payment receipts as Annexure-P-1, Annexure P-5 (colly) and Annexure P-6.

As per plot buyer agreement executed between parties on 18.04.2015, respondent was under an obligation to hand over possession of the flat within 24 months i.e. on or before 18.04.2017. Copy of BBA has been annexed as Annexure P-7 with the complaint. There has been a delay of more than six years from date of booking but respondent has failed to offer possession of the plot till date. It has been contended that complainant has already paid entire sale consideration including EDC, IDC as demanded by the respondent but respondent has failed to complete the project. So, present complaint has been filed seeking possession of the plot or in alternative refund of the amount deposited by her along with interest, compensation and litigation charges.

4. Respondent has filed short reply raising objection that this Authority has no jurisdiction to deal with the prayer of refund made in the



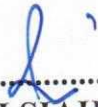
complaint. Said objection of respondent is rejected for the reason already stated above in Para 1 of this order.

5. Learned counsel for the respondent has informed the Authority that possession has been handed over to the complainant and conveyance deed has been executed between the parties on 06.09.2020.

6. Authority observes that complainant was neither present in last four hearings nor present today to prosecute his case. On the other hand, learned counsel for the respondent has informed that conveyance deed has been executed between the parties. So, in view of the statement made by learned counsel for the respondent, Authority decides to dispose of the matter. Complainant is at liberty to file fresh complaint, if any grievance survives after disposal of present complaint.

7. **Disposed of.** File be consigned to record room and order be uploaded on the website of the Authority.

  
.....  
RAJAN GUPTA  
[CHAIRMAN]

  
.....  
DILBAG SINGH SIAHG  
[MEMBER]