

9. Satinder Singh etc. vs M/s Haamid Real Estates. E/1120/2024

Present: - Mr. Sanjeev Sharma, Advocate for DH.
Mr. Dhruv Rohtagi, Advocate for JD.

This is a petition seeking execution of order passed by the Authority dated 21.11.2023. The respondent/promoter has been directed to refund the entire paid-up amount of Rs.1,44,76,467/- received by it from the complainant along with interest at the rate of 10.75% p.a. from the date of filing of the complaint i.e. 18.12.2020 till the actual realization of the amount.

As per learned counsel for DH, no amount has been recovered till now. On the other hand, learned counsel for JD requests to dismiss the execution petition alleging that same is a nullity as this order was passed in respect of two complaints filed by two complainants independently. One complaint has been decided through order under execution. Secondly, his client i.e. JD approached the High Court, by filing a writ petition i.e. CWP-23724-2024. Said petition was dismissed as withdrawn on 18.09.2024 with liberty to approach the Authority, under section 39 of the Act of 2016. His client i.e. JD filed an application, before the Authority with prayer for rectification of order, which is still to be listed for hearing.

Learned counsel contends further that through order under execution, it was clarified by the Authority that in pursuance of order in CR No. 3170/2021, if respondent-builder has already refunded any amount to the complainant then the same (respondent-builder) is directed to adjust/deduct such refunded amount from the paid up amount of Rs.1,44,76,467/- and to pay the balance amount-----.

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Learned counsel for DH admits that a sum of Rs.41,34,700/- has already been received by complainant in that case i.e. Harsh Joneja. He requests for direction to JD to pay remaining amount only with interest.

Learned counsel for JD requests not to pass any order in this petition, till aforesaid application is decided by the Authority. Counsel for DH, requests to proceed further stating that there is no stay against execution proceedings either from the Authority or from any higher Court/Tribunal.

Admittedly, there is no stay against execution proceedings. I see no reason to adjourn the matter.

Admittedly, decretal amount has not been paid till now, learned counsel for DH requests for direction to JD to disclose its assets/properties including bank account and unsold inventories which can be attached to realize the decretal amount. Request is allowed. JD is directed to disclose its assets/properties including bank account and unsold inventories which can be attached to realize the decretal amount. Information be given in the form of affidavit to be sworn by anyone from directors of JD, preferably by Managing Director. At the same time, Tehsildar (Recovery Cell) of Authority be asked to enquire about the properties of JD and to file his report till next date.

To come on 11.03.2025 for further proceedings.


(Rajender Kumar)
Adjudicating Officer,
13.11.2024