

Pivotal Infrastructure Pvt. Ltd.
V/s
Bhupesh Mittal

Appeal No. 82 of 2020

Present: Sh. Rohan Gupta, Advocate, Id. counsel for the appellant.
Sh. Peeyush Bansal, Advocate, Authorised Representative.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

Respondent has sent an email i.e. a response to the appeal filed by the appellant/promoter. There is no provision for taking reply to the grounds of appeal. So, this response sent by the respondent/allottee is not being taken on record. Moreover, the issues raised therein are with respect to the calculations of the amount which is not to be determined by this Tribunal in the present appeal. Rather, this matter is to be adjudicated upon by the Id. Authority which is already executing the order passed in complaint no. 590 of 2018 titled as 2018 titled as "Bhupesh Mittal Versus M/s Pivotal Infrastructure Pvt. Ltd."

It is evident from the order of the notice of motion that the grievances raised by the appellant/promoter was with respect to the directions given by the Id. Authority for holding charges mentioned in para no. 3(iii) of the impugned order dated 17.12.2019.

Complaint no. 590 of 2018 filed by the respondent/allottee was disposed of in terms of the findings /directions given by the Ld. Authority in complaint no. 49 of 2018 titled as "Parkash Chand Arohi Versus M/s Pivotal Infrastructure Pvt. Ltd". It has been fairly conceded at bar by both the parties that in Parkash Chand Arohi (Supra), there was no directions by the

ld. Authority with respect to the holding charges. It is settled principle of law that the Executing Court cannot travel beyond the decree, so, the ld. Authority was not competent to issue the directions in the impugned order dated 17.12.2019 with respect to the holding charges. So, the directions given by the ld. Authority in para no. 3(iii) of the impugned order dated 17.12.2019 is beyond the scope of the execution of the order passed in complaint no. 590 of 2018 and this direction cannot be sustained in the eyes of law.

Consequently, the same is hereby set-aside, however, the execution proceedings with respect to the remaining claims shall proceed in accordance with law. Obviously, the rights of the parties with respect to the payment of holding charges will be governed as per the terms and conditions of the buyer's agreement.

The appeal stands disposed of accordingly.

File be consigned to the records.

Copy of this order be sent to both the parties and the ld.

Authority for compliance.

Justice Darshan Singh (Retd.)
Chairman,
Haryana Real Estate Appellate Tribunal,
Chandigarh

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

18.08.2020

Rajni