

**HARYANA REAL ESTATE REGULATORY AUTHORITY,
PANCHKULA.**

1. Complaint No. RERA-PKL-259 of 2018
Naveen Sethi. ...Complainant.

Versus

M/s Samar Estates Pvt.Ltd. ...Respondent.

2. Complaint No. RERA-PKL-379 of 2018
Naveen Sethi. ...Complainant.

Versus

M/s Samar Estates Pvt.Ltd. ...Respondent.

Date of hearing:- 06.12.2018.

Coram:- Shri Rajan Gupta, Chairman
Shri Anil Kumar Panwar, Member.

Appearance:- Shri Arun Gupta, Advocate for complainant.
Shri Tarun Gupta, Advocate for respondent.

ORDER:-

No reply is intended to be filed by the complainant to the application which was moved by the respondent on the previous date of hearing. Learned counsel for the complainant has, however, orally opposed the said application.



2. The complainant herein has raised a plea that out of total amount of Rs. 48,23,700/- which he had paid to the respondent, a sum of Rs. 26,25,000/- was paid in cash. The respondent disputed the said payment of cash amount. The complainant in order to prove his version about the payment of cash amount has produced before the Authority written receipts issued to him by Shri Bagai, Managing Director of the respondent company and recording of his oral conversation held with Shri Bagai.

3. The Authority in order to adjudge the credibility of such evidence has decided to take opinion of Central Forensic Laboratory (CFL), Sector-36, Chandigarh and Finger Print Bureau, Madhuban about as to whether the alleged voice and hand writing match with that of Shri Bagai. A detailed order to that effect was passed by the Authority on 25.09.2018

4. The respondent filed an appeal against the said order dated 25.09.2018 before the Hon'ble Appellate Tribunal but has later withdrawn the same. So, Hon'ble Tribunal has disposed of the appeal of the respondent with the following orders:-

“....The appellant shall be at liberty to raise all the grounds available to him in accordance with law before the learned Regulatory Authority which shall be considered in a judicious manner by the learned Regulatory Authority and needless to say the appellant shall also be provided due opportunity to rebut the evidence being produced by the



complainant in support of alleged cash payments. Disposed of accordingly.”

5. Subsequent to the aforesaid decision of the Hon'ble Appellate Tribunal, the respondent moved the application which is fixed for today for consideration by this Authority. The grievance projected in the application, in essence, is that since the Authority had called for scientific opinion before the complainant would have adduced a proof about alleged cash payment, adherence of such procedure by this Authority has led to shifting the entire onus upon the respondent. The Authority is of the considered opinion that the respondents' plea is wholly misconceived.

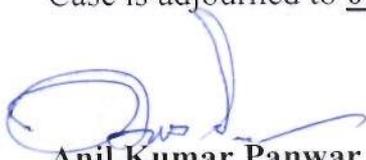
6. Concededly, the cases filed before this Authority need to be summarily disposed of within prescribed period of 60 days. The complainant herein has produced before the Authority receipts and recorded conversation purported to be in the hand and voice of the respondent-Managing Director of the company. The Authority in order to test the truthfulness of evidence so produced by the complainant has decided to seek scientific opinion. So, it is a case where the initial burden of proving cash payment was discharged by the complainant on the basis of above referred receipts and recorded conversation which if substantiated by scientific opinion will attain a creditability requiring rebuttal by the respondent. There is thus no scope to hold that the Authority had shifted onus to the respondent or that there was no occasion for the Authority to call for



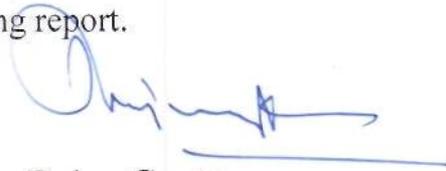
a scientific opinion. Thus viewed, the Authority finds no merit in the application and the same is dismissed.

7. Central Forensic Laboratory (CFL) had sent a letter to this Authority for supplying some information on certain points. Parties shall obtain the copy of the said letter from A.O. (Petitions) and do the needful on their part in order to facilitate examination of disputed document.

8. Case is adjourned to 06.02.2019 for awaiting report.



Anil Kumar Panwar
Member



Rajan Gupta
Chairman