

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

Date: 14.02.19

Hearing:6th

Complaint No 297/2018

Parvinder Dhaiya

COMPLAINANT

Versus

M/s Dwarkadish Projects Pvt. Ltd.

RESPONDENT

Quram:-

- | | |
|----------------------------|------------------|
| 1. Shri Rajan Gupta | Chairman. |
| 2. Shri Anil Kumar Panwar | Member. |
| 3. Shri Dilbag Singh Sihag | Member. |

Appearance: -

1. Shri. Jaghbir Singh, Counsel for Complainant
2. Shri. Kamal Dahiya, Counsel for Respondent

ORDER: -

In this case, the complainant was allotted the Unit No. 3, third floor, Tower no. B-3 measuring 1500 Sq. ft in the real estate project i.e. "Aravali Heights", Sector-24, Dharuhera after payment of booking amount Rs.3,50,000/- dated 11.01.2007. Buyer agreement was executed between the complainant and promoter/respondent on 30.07.2017 and the said unit no B-3 was allotted to complainant for basic sale price of Rs. 22,05,000/- against which Rs. 10,04,625/- stands paid by the complainant.

2. The complainant's grievance is that the respondent has neither kept his promise to deliver the possession within stipulated time i.e. by 11.01.2007 nor is able to complete the project. Hence under these



circumstances, on account of failure and fraudulent acts of the respondents/promoter. The complainant seeks refund of Rs. 10,04,625/- along with interest at the rate of 18%.

3. The Learned Counsel for the respondent submitted that the present complaint does not fall under the jurisdiction of this Hon'ble Authority as the claim for possession of the unit along with interest and compensation if any would be adjudged by the Adjudicating Officer rather than Authority. Besides above, his contention taken is that the project is not registered with this Hon'ble Authority. Hence, the present project does not come under the purview of RERA nevertheless the fact is that the Authority has already decided this issue categorically in **complainants no. 113 of 2018 titled as Madhu Sareen Versus BPTP and 144 of 2018 titled as Saju Jain Versus TDI**. Respondent counsel also stated that the complainant is misrepresenting by concealing the fact that the project is not completed. In this regard it is submitted that Occupation Certificate was already granted to the respondent on 28.02.2013 and 19.03.2013. Thus, the project of the respondent is not required to be registered with the Hon'ble HRERA, Panchkula. Respondent further stated that he has approached the Hon'ble Punjab and Haryana High Court against the order passed by Permanent Lok Adalat REWARI dated 05.02.2016 and Hon'ble Court had stayed the operation of the impugned order and referred the matter to Permanent Lok Adalat for settlement. As complainant has already availed the recourse available under applicable law. Thus, the present complaint is not maintainable.

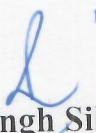
4. Today, the learned counsel for the complainant stated that an order was passed by Permanent Lok Adalat which is annexured at page no. 33 of the complaint. He also stated that he had paid Rs. 10 Lakh approximately to the respondent. He also stated that writ petition against the order dated 05.02.2016 passed by the Permanent Lok Adalat was dismissed. On this,



authority asked the Learned counsel of the complainant since, the matter similar in nature has already been decided by Permanent Lok Adalat then where is the scope to hear it again by this Authority.

5. After perusing the written as well as oral submissions made by counsels of both the parties, the Authority decided that once the matter was already decided by Learned Permanent Lok Adalat then the same cause of action cannot be raised before another alternative Forum. At this stage, complainant's counsel requested to withdraw the present complaint and the same is allowed by the Authority.


Disposed of as withdrawn. File be consigned to record room after uploading of this order on the website of the Authority.



Dilbag Singh Sihag
Member



Anil Kumar Panwar
Member



Rajan Gupta
Chairman