



Complaint no. 247 & 1027
of 2021

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 247 OF 2021

Pradeep Kumar Roy

....COMPLAINANT(S)

VERSUS

Tarang Infrastructure. Ltd.

....RESPONDENT(S)

2. COMPLAINT NO. 1027 OF 2021

Tarang Infrastructure. Ltd.

....COMPLAINANT(S)

VERSUS

Pradeep Kumar Roy

....RESPONDENT(S)

CORAM: Rajan Gupta
Dilbag Singh Sihag

**Chairman
Member**

Date of Hearing: 09.12.2021

Hearing: 4th (in complaint no. 247 of 2021)
2nd (in complaint no. 1027 of 2021)

Present through:- (in complaint no. 247 of 2021)
Video conferencing Mr. Vineet Sehgal, Learned counsel for the complainant.
Mr. Mukesh Kumar Garg, Learned counsel for the respondent

(in complaint no. 1027 of 2021)
Mr. Mukesh Kumar Garg, Learned counsel for the complainant.
Mr. Vineet Sehgal, Learned counsel for the respondent

ORDER (RAJAN GUPTA-CHAIRMAN)

Complainant in complaint no. 247 of 2021 has sought execution of order dated 05.11.2020 passed by the Authority in complaint no. 706 of 2019 titled 'Pradeep Kumar Roy Vs Tarang Infrastructure Ltd.'. Authority had directed the respondent to refund full amount paid by the complainant to respondent alongwith interest till date of orders which works out to Rs 48,22,140/- .

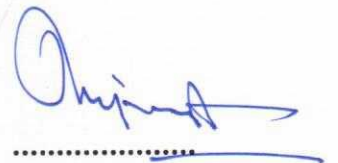
2. Mr. Mukesh Kumar, learned counsel for the respondent has filed a review petition in form of Complaint no. 1027 of 2021 against the impugned order dated 05.11.2020 as it was passed ex-parte without affording him a hearing.

3. Initiating his pleadings, Mr. Mukesh Kumar Garg, learned counsel submitted that in Complaint no 706 of 2019 respondent was duly represented by their earlier counsel till 6th hearing. On 6th hearing dated 11.02.2020 case was adjourned to 24.03.2020 but in meanwhile lockdown was imposed in the country due to Covid-19, and accordingly all cases were adjourned to later dates. Complaint no. 706 of 2019 was next listed for hearing on 15.09.2020. Authority had informed all the parties of the next date of hearing by way of email. However, said communication was not received by the respondent because the email id and telephone no. provided by complainants in Proforma-B

of Complaint no. 706 of 2019 were incorrect. For this very reason respondent was unable to present his case in subsequent hearings including final hearing dated 05.11.2020. Therefore, ld. counsel requested the Authority to set aside ex-parte judgement in complaint no. 706 of 2019 and stay the execution proceedings of order dated 05.11.2020 which have been filed vide complaint no. 247 of 2021.

4. After hearing above submissions, Authority is of the considered view that although orders dated 05.11.2020, the orders under execution, were passed in the absence of counsel for respondent but till 6th hearing of the matter respondent was duly represented by his earlier engaged counsel, Shri R. K Solanki. After hearing each and every argument put forth by both parties and after duly taking into account all the documents placed on record Authority had passed a detailed speaking order as per merits of the case. Prayer of respondent company of review of impugned order dated 05.11.2020 amounts to reconsideration of the order on merits. Authority is not entitled to do so because said order has been passed on merits after duly considering all relevant oral and documentary information placed before it by way of pleadings in Complaint no. 706 of 2019. Moreover, review per se is admissible only in case of error apparent on the face of record. No such error has been pointed out. Therefore, prayer of the respondent for review of order dated 05.11.2020 cannot be accepted and is hereby declined. Therefore, complaint no. 1027 of 2021 is disposed off as dismissed.

5. Complaint no. 247 of 2021 is an execution petition filed for execution of orders dated 05.11.2020 awarding refund of paid amount in favour of complainant. It is observed that Hon'ble Supreme Court of India in SLP No. 13093 of 2020 titled as M/S. TDI Infrastructure Ltd. Versus Union of India & Ors. along with other SLP's vide its order dated 05.11.2020 had stayed the proceedings before this Court in matters pertaining to refund of paid amounts. The impugned order under execution passed in complaint no 706 of 2019 whereby relief of refund of the paid amount was awarded to complainant was passed on 05.11.2020 and the stay order by Hon'ble Supreme Court was also passed on the same date i.e 05.11.2020. Since the fact that whether Authority had power to grant relief of refund or not on the date of passing of order under execution i.e on 05.11.2020 is under dispute, Authority decides not to hear this matter at this stage. Adjourned to 25.01.2022 awaiting decision of Hon'ble Supreme Court and for further clarity in the matter.



RAJAN GUPTA
[CHAIRMAN]



DILBAG SINGH SIHAG
[MEMBER]