

M/s VSR Infratech Pvt. Ltd.

Vs.

Ramesh Agrawal

Appeal No.603 of 2021

Present: Ms. Gurinderjit, Advocate, ld. counsel for the appellant.

Shri Nitin Kant Setia, Advocate, ld. counsel for the respondent.

ORDER

The present appeal has been preferred against the order dated 28.09.2021 vide which the application moved by the appellant for impleading National Highway Authority of India (for short 'NHAI') and State of Haryana, as parties to the complaint has been dismissed by the learned Adjudicating Officer, Haryana Real Estate Regulatory Authority, Gurugram.

2. Heard.

3. As per the contention raised by learned counsel for the appellant, the purpose of impleading NHAI and the State of Haryana, Town and Country Planning Department, was only to show that the appellant-promoter was not responsible for the delay in completion of the project as Dwarka expressway was to be built up by these two agencies.

4. We have duly considered the aforesaid contentions.

5. It is an admitted fact that no relief has been sought by the respondent-allottee against both these agencies in the complaint. Even otherwise, their presence is not required in order to enable the Court to effectually and completely to adjudicate upon and settle all the questions involved in the complaint filed by the respondent-allottee as both these agencies were not the privity to the contract between the parties to the complaint/appeal and no relief has been claimed by the respondent-

allottee against these agencies. So, in our opinion both these agencies are neither necessary nor proper parties to the complaint.

6. It appears that the purpose of impleading both these agencies by the appellant-promoter is to explain the delay in completion of the project. Learned counsel for the appellant has contended that the non-action on the part of these agencies will constitute the force majeure for delay in completion of the project. For this purpose, the appellant-promoter is at liberty to move an appropriate application under Section 35(2) of the Real Estate (Regulation and Development) Act, 2016 read with Rule 28(2)(h) of the Real Estate (Regulation and Development) Rules, 2017 to summon the appropriate record/witness to prove their plea.

7. With these observations, the present appeal stands disposed of.

8. The copy of this order be communicated to the parties/learned counsel for the parties and the learned Authority.

9. File be consigned to the record.

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

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

April 18, 2022
CL