

PUNJAB NATIONAL BANK

....PETITIONER

VERSUS

LUDHIANA IMPROVEMENT TRUST AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE JASPAL SINGH

- 1. Whether Reporter of local papers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Present: Mr. N.C. Sahni, Advocate
for the petitioner.

Mr. Anil Kumar Sharma, Advocate
for the respondent.

SURYA KANT, J (ORAL)

Petitioner-bank is aggrieved by the demand notices (P-62 to P-70) issued by respondent No.1 asking it to deposit an additional sum of ₹48,70,000/- approximately towards allotment price of nine residential flats located at Rishi Nagar, Ludhiana.

2. The flats were allotted in the year 1994 followed by an agreement of sale executed in the year 1998-99. The flats were finally handed over to the petitioner-bank in the year 2012.

3. The petitioner-bank requested respondent No.1 to execute the conveyance deeds and at that juncture that the additional demand has been raised.

4. The petitioner-bank submitted its objections against the demand notices but after a long correspondence, when the respondent-Trust continued to insist to pay the additional allotment price, instant petition is filed.

5. The respondent-Trust has filed its reply-affidavit and one of the preliminary objection taken by it, is that as per Clause 13 of 'Agreement of Sale', any dispute or difference arising between the respondent-Trust and the allottee bank including terms and conditions of allotment of flats or its cost or its reserve price etc is referable to the nominated Arbitrator, namely, Secretary to Government of Punjab, Local Government Department. In addition, the Trust has justified the additional demand raised by it.

6. We have heard learned counsel for the parties and gone through the relevant record.

7. There is no denial to the execution of 'Agreement to Sell' between the parties. In fact the petitioner-bank has placed on record all such agreements dated 11.03.1998 (P-30 to P-38). Clause 13 of the said agreement reads as follows:

“In the event of any dispute or difference, at any time, arising between the Trust and the intended allottee/vendee as to the true intent and meaning of these covenants in this agreement or any part thereof, in respect of property (flat) and rights therein hereby reserved or any of them, or any matter incidental or relating thereto, including the matters relating to the Housing Development Scheme, the 1983 Rules for the purposes of the scheme, and terms and conditions of allotment of the flats its cost and reserve price of the flat, the said dispute or difference shall be referred to the Secretary to Government Punjab, Local Government Department, Chandigarh of any officer appointed by him in that behalf, whose decision thereon shall be final and binding on the parties.:

8. Since the dispute raised in this writ petition pertains to the determination of cost of the allotted flats, it squarely falls within the ambit of arbitration Clause, reproduced above. The controversy raised in this writ petition

thus, deserves to be relegated to the Arbitrator nominated by the parties in their agreement to sell. Ordered accordingly.

9. Having held that, we are also of the considered view that it would be in the interest of both the parties to issue certain directions, which do not have any impact or bearing on the merits of the dispute referred to the Arbitrator. The instant petition is thus disposed of in following terms:

- (i) The petitioner-bank shall be at liberty to approach the Arbitrator, namely, Secretary to Government of Punjab, Local Government Department and in case the arbitration petition is filed within one month, we direct the learned Arbitrator to decide the dispute as early as possible and preferably within a period of four months from the date of its filing;
- (ii) Without prejudice to the rights, petitioner-bank may deposit the additional amount as demanded by the respondent-Trust and if it does so, the respondent-Trust is directed to execute the conveyance deeds within two weeks of such deposit;
- (iii) The learned Arbitrator shall without prejudice to the other contentions that may be raised by petitioner-bank, specially consider the justifiability of levy of penalty and interest on the petitioner-bank.

(SURYA KANT)
JUDGE

(JASPAL SINGH)
JUDGE

AUGUST 12, 2015
SHAM