

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Regular Second Appeal No.3496 of 2013 (O&M)

Date of decision: 08.09.2015

M/s Babbal Electrical Engineers, Nissan Hut 138, NH-5, Railway
Road NIT, Faridabad

... Appellant

versus

Municipal Corporation, Faridabad, through its Commissioner, B.K.
Chowk, NIT, Faridabad.

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Vikas Kumar, Advocate,
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The appeal is against the dismissal of the suit filed by the plaintiff complaining that the demand for extension charges for failure to complete the construction was not tenable and that it must be treated as null and void and not binding. The contention by the plaintiff was that the defendant had not carried out the necessary development in the property such as making electricity installations and other necessary amenities like laying roads etc. The plaintiff also examined a person from the Electricity Department to say that

the electrification was done and completed only in the year 2010. The argument was if the defendant has not even made the place fit for habitation by providing for electrification which was a basic amenity, they had no right to insist that the construction must have been completed and for alleged failure of such completion to demand an extension fee.

2. The clause that provides for the extension fee is clause 17 in the letter of allotment (Ex.P1). The clause requires the allottee to complete the construction within a period of 2 years from the date of offer of possession and if it was not done, the allottee will be liable for extension charges and the plot would also be resumed. The defendant contended that there had been an offer of possession of the property on 29.04.1997, the copy of which was Ex.D1 and the Assistant Architect-DW1 stated that he was served with an offer of possession. The court observed that in the cross-examination of this witness, it was nowhere challenged that Ex.D1 had never been sent from the office, rather the suggestion was that they had issued the offer of possession without carrying out the developmental work. The court, therefore, inferred that the plaintiff had knowledge of the property as having been delivered even in the year 1997 and if there was a violation of Section 17, they were competent to collect the extension charge provided under the same clause.

3. I asked the counsel whether there was any particular clause which determined any particular period before when electrification was required to be completed. I also asked him of whether there was any particular undertaking about the nature of developmental work that had to be completed and whether it was attached with time stipulation, the failure of which observance would relieve the allottee of the obligation to complete the work in the manner required under Clause 17. The counsel is unable to assist with any such detail as favourable to him.

4. I do not think there is any error in the judgment dismissing the suit for what was a clear violation of Clause 17 and enforcement obtaining on account of such violation. There is no error in the judgments of the courts below dismissing the suit. Second appeal is dismissed.

(K.KANNAN)
JUDGE

08.09.2015
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