

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 15387 of 2016

Date of Decision: 2.8.2016

Dr. Mandeep Dhingra and another

....Petitioners.

Versus

Greater Mohali Area Development Authority, Mohali and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Rajesh Bhatheja, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of mandamus directing the respondents to pay the interest on the amount deposited by them from the date of deposit along with 8% interest compounded annually.

2. Respondent No.2 floated a scheme for allotment of flats in Sector 88, SAS Nagar, Mohali under its project, Purab Premium Apartments. In pursuance thereto, petitioner No.1 applied for the allotment of a residential apartment, Type-2, A-Category vide application No.32134 and also deposited the earnest money. The said application was duly acknowledged by respondent No.2 vide acknowledgment dated 21.1.2012 (Annexure P-1). The draw of lots was held on 19.3.2012 and being successful in the draw of lots, petitioner No.1 was allotted a residential

apartment Type-2, A-Category in the said project. Letter of Intent (LOI) dated 21.5.2012 (Annexure P-2) was issued to petitioner No.1. Petitioner No.1 had paid 10% of the total amount i.e. ₹ 5,50,000/- along with the application form and thereafter paid another amount of ₹ 11,00,000/- being 20% of the price on 20.6.2012 totalling 30% of the total price of the apartment. To make balance payment of 65%, the petitioners adopted Plan-A mentioned in Clause 2.2 of the payment schedule to get rebate of 5% of the balance amount payable and made payment of ₹ 33,96,250/- on 21.7.2012 being balance 65% of the tentative price of the Apartment. The said payment was made vide receipts dated 21.7.2012 (Annexure P-3 Colly). Originally petitioner No.1 had applied for the said Apartment in his name but after payment of 95% of the total amount, petitioner No.1 vide application dated 9.8.2012 requested respondent No.2 to add the name of his wife Mrs. Shilpa Arora (petitioner No.2) in the LOI. Respondent No.2 vide letter dated 3.9.2012 (Annexure P-2) informed petitioner No.1 that the name of his wife (petitioner No.2) has been added in the LOI. As per Clause 3 of the LOI, Annexure P-2, the possession of the allotted apartment was to be handed over to the petitioners within a period of 36 months after completion of development works at the site but respondent No.2 failed to deliver the possession thereof to the petitioners. The petitioners vide letter dated 20.3.2016 (Annexure P-5) requested respondent No.2 to refund the money paid by them along with interest. Respondent No.2 vide order dated 1.3.2016 (Annexure P-6) cancelled the LOI, Annexure P-2, issued in the name of the petitioners and refunded a sum of ₹ 53,34,583/- including ₹ 50,47,354/- (95% of the allotment money inclusive scheme interest plus ₹ 3,04,224/- and 8% interest from the period 22.5.2015 to 20.2.2016 for 275

days). The petitioners after receipt of the refund of ₹ 53,34,583/- asked the respondents to pay the interest, but to no effect. Thereafter, the petitioners served a legal notice dated 30.4.2016 (Annexure P-7) upon respondent No.2 for the payment of interest, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that for the relief claimed in the writ petition, the petitioners have sent a legal notice dated 30.4.2016 (Annexure P-7) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioners, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the legal notice dated 30.4.2016 (Annexure P-7), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioners within a period of two months from the date of receipt of certified copy of the order. It is further directed that in case the petitioners are found entitled to the amount of interest, the same be released to them within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

August 2, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No