

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

CWP No.10717 of 2014
Date of decision : 17.02.2017

M/s GEE City Builders

...Petitioner

Versus

Permanent Lok Adalat and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Gaurav Chopra, Advocate for the petitioner.

Mr. J.S. Gill, Advocate for respondent No.2.

AMIT RAWAL, J. (Oral)

The petitioner is aggrieved of the impugned order dated 12.05.2014 (Annexure P-7), whereby the complaint of the respondent No.2- Sukhjit Singh Pasricha for refund of the maintenance security of ₹10,000/- deposited vis-a-vis Flat No.601, Block-B, Rishi Apartments, Sector-70, SAS Nagar, Mohali has been accepted on the premise that respondent No.2 approached the office of petitioner to obtain “NO DUE CERTIFICATE” for execution of the sale deed in respect of the plot and requested to adjust the maintenance amount of ₹6350/-, which was actually due, against the security refund, which was refused and ultimately the respondent No.2 stated to have paid the aforementioned amount. It is in this backdrop of the matter, application aforementioned was filed.

Mr. Gaurav Chopra, learned counsel appearing on behalf of

petitioner submits that Lok Adalat did not have any jurisdiction to try and entertain the dispute as mixed question of facts and law are involved. Detailed evidence was required to be led particularly terms and conditions of the Apartment Buyers Agreement. Clause 26 envisage that maintenance charges would be interest free, thus, Lok Adalat in view of the aforementioned provisions rather awarded interest at the rate of 9% p.a.. Over a period of time, the builder transferred the control of the entire building to the Resident Welfare Association and the amount received is also transferred and submits that order of Lok Adalat ordering the interest is totally fallacious, arbitrary and illegal.

Per Contra, Mr. J.S. Gill, learned counsel appearing on behalf of respondent No.2 submits that control and charge of the building qua maintenance had been transferred to the Resident Welfare Association w.e.f. 2006. At the best petitioner is liable to pay interest for such period and builder cannot have lien/control over the aforementioned maintenance charge particularly when the owner of the flat intends to sell the property.

I have heard learned counsel for the parties and appraised the paper book.

No doubt the power of the Lok Adalat in a disputed question of facts and law is ousted in view of ratio decidendi culled out by this Court in CWP No.11542 of 2015.

In fact, the order does not reveal any recording of satisfaction regarding reconciliation. In fact, this Court had already in CWP No.11542/2015 held that interim order should reflect the efforts of reconciliation and its satisfaction. Be that as it may, I do not intend to delve

upon the present matter as the amount involved in the present writ petition as too minimal.

By not considering observation as a binding precedent, I deem it appropriate that order of Lok Adalat in ordering the crediting of the amount of ₹10,000/- in the account of Resident Welfare Association is perfectly, legal and justified. However, it shall not entail interest @ 9% as claimed in order in terms of the conditions of the agreement *ibid*. However, Mr. Chopra, Advocate has very fairly stated to the Court that in case Resident Welfare Association raises any demand, it will pay the interest.

With the aforementioned observation, order of Lok Adalat is modified but it shall be read as crediting of the amount of ₹10,000/- in the account of Resident Welfare Association without any interest in view of terms & condition *ibid*.

The petitioner is directed to transfer the amount of ₹10,000/- to Resident Welfare Association within a period of one week from the date of receipt of certified copy of the order.

Accordingly, present writ petition is allowed.

17.02.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No