

CWP No.20463 of 2017

[1]

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

**CWP No.20463 of 2017
Date of decision:08.09.2017**

M/s Landmark Apartments Pvt. Ltd., Gurgaon ...Petitioner
Versus
Ms. Pragati Bhargava and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Manjeet Dalal, Senior Advocate, with
Mr. Samrat Malik, Advocate, for the petitioner.

Rakesh Kumar Jain, J.

This petition is filed for seeking a writ in the nature of *certiorari* for quashing the order dated 06.06.2016 passed by the Permanent Lok Adalat (Public Utility Services), Gurgaon (hereinafter referred to as the “Permanent Lok Adalat”) by which application filed by respondent no.1 under Section 22-C of the Legal Services Authorities Act, 1987 (hereinafter referred to as the “Act”) has been allowed.

In brief, respondent no.1 booked an area of 155 square feet @ ₹9,215/- per square feet for a total consideration of ₹14,28,325/- in the project of Landmark Cyber Park. The entire sale consideration was paid through two cheques dated 24.07.2010 and 20.08.2012 and provisional allotment was made to respondent no.1. Thereafter, Memorandum of Understanding was also executed between the parties on 29.07.2010. It is alleged that as per the Memorandum of Understanding, the petitioner was to

pay the assured return to respondent no.1, which was alleged to have been paid from July, 2013, to the tune of ₹4,41,355/-. It is further alleged that the project was near completion and at the time of final conveyance deed, each allottee was to deposit the EDC, IDC, IFMS, registration charges etc. and as such, respondent no.1 was also asked to be prepared for the payment vide communication dated 30.01.2014. It is alleged that respondent no.1 responded on 15.06.2015 and agreed to pay all the dues. In the meantime, the petitioner had allegedly completed the project and applied for grant of completion certificate vide letter dated 22.06.2015. It is further alleged that though the project was ready in all respects but the real estate market crashed unfortunately and respondent no.1 thought that she would not get good returns from the said space in the cyber park, therefore, she filed the application under Section 22-C of the Act, asking for refund of her entire amount along with interest etc.

The application was contested by the petitioner but the Permanent Lok Adalat decided it against the petitioner and directed it to refund the amount of respondent no.1 in terms of condition nos.6 and 7 of the allotment letter, in which it is provided that if the allottee seeks cancellation of allotment at any stage, the company shall forfeit 20% of the consideration and return the balance amount. Consequently, direction was issued by the Permanent Lok Adalat to refund an amount of ₹11,46,660/- to respondent no.1 after cancellation of her unit towards the basic consideration of ₹14,28,325/- and they were also held liable to pay ₹3,28,509/- towards arrears of assured return upto July, 2015 and thereafter

@ ₹14,283/- per month till the date of actual payment.

Learned Senior counsel appearing on behalf of the petitioner has not disputed condition nos.6 and 7 of the allotment letter, which bind the petitioner-company to refund the amount of the basic consideration after forfeiting 20% amount but it was vehemently argued that the refund of the amount at this stage when the project is complete is totally uncalled for. Although counsel for the petitioner could not make out his case in law but argued that the equities are in his favour.

After hearing learned counsel for the petitioner, examining the available record and considering the facts and circumstances of the present case much-less the admitted clauses of the terms and conditions of the allotment letter, which bind the petitioner-company in all respects, I do not find any reason to differ with the view taken by the Permanent Lok Adalat because there is no error of law pointed out by the petitioner for the purpose of interference by this Court.

Consequently, the present petition is hereby dismissed being denuded of any merit, though without any order as to costs.

September 08, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No