

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

CWP No.22563 of 2017

Date of Order: 07.12.2017

M/s True Zone Buildwell Pvt Ltd

....Petitioner

Versus

Sudhakar Mittal & Anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present : Mr. Chanderhas Yadav, Advocate for the petitioner.

Mr. Sharad Aggarwal, Advocate for respondent No.1.

RAKESH KUMAR JAIN, J (ORAL)

The petitioner has challenged the award dated 23.5.2017 passed by the Permanent Lok Adalat, Public Utility Services, Karnal, on the application filed under Section 22-C of the Legal Services Authorities Act, 1987 (for short “the Act”).

The petitioner entered into Plot Buyer's Agreement with one Vijay Gupta in which, it was provided that in case of any increase or decrease upto 5% of the originally allotted area, it shall be adjusted at the booking rate but if the increase or decrease is more than 5% then it would be the sole discretion of the Builder to decide the rate of increased area. The plot in question was originally 331.460 sq. yards which was later increased to 343.67 sq. yds. The plot in question was sold by Vijay Gupta to respondent No.1 and three others. The maintenance part of the colony was outsourced by the Builder. A separate agreement of maintenance was thus entered into between the Maintenance Company called Global Reality Creations Limited with the subsequent buyer (respondent No.1) and others. An agreement was entered into on 01.4.2013 between the Builder/petitioner and the subsequent purchasers/respondent No.1 and others and at that time,

they agreed to pay Rs.20,000/- per sq. yds for the excess plot area and thus, were liable to pay a sum of Rs.3,12,934/-.

According to the petitioner, respondent No.1 did not pay either maintenance charges of Rs.6.00/- per month per sq. yard nor deposited Rs.200/- per sq. yard as security of the maintenance. However, as per respondent No.1, the petitioner did not provide the basic amenities and because of this tussle, the application under Section 22-C of the Act was filed.

Learned counsel for the petitioner has argued that the Permanent Lok Adalat has committed an error on facts by ignoring the document Annexure P.5 while recording a finding in para 13 of the impugned award wherein it is observed that the petitioner is entitled to recover the amount as per the Buyer Agreement for which the respondent No.1 is still not disagreeing and is rather liable to pay Rs.3,12,934/-, which was originally the price of the plot. It is submitted that the impugned order has been passed contrary to the documents available on record as the Permanent Lok Adalat has not even made a reference to it while recording findings against the petitioner.

This argument could not be satisfactorily answered by the respondents rather a suggestion has been made by them that the impugned order may be set aside and the matter be remanded back to the Permanent Lok Adalat to decide it again after taking into consideration the entire facts and circumstances of the case and record separate findings.

Learned counsel for the petitioner is also not averse to the suggestion made by learned counsel for the respondents.

In view of aforesaid, present petition succeeds and the order

dated 23.5.2017 is set aside and the matter is remanded back to the Permanent Lok Adalat, Public Utility Services, Karnal with a direction to them to decide the lis between the parties afresh without being influenced with the earlier order dated 23.5.2017. Needless to mention that the Permanent Lok Adalat shall consider all the aspects of the matter and decide the same after considering the arguments pointwise/issuewise.

Parties are directed to appear before the Permanent Lok Adalat, Public Utility Services, Karnal on 21.12.2017.

December 07, 2017
manoj

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No