

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.9233 of 2017.

Date of Decision: May 03, 2017

G.B.M. Residential Welfare AssociationPetitioner

versus

G.B.M. Developers and Promoters (P) Ltd and othersRespondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.Aman Sharma, Advocate, for the petitioner.
Mr.Rajesh Bhardwaj, Additional AG, Punjab.

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Surya Kant, J. (Oral)

Notice of motion.

On our asking, Mr.Rajesh Bhardwaj, learned Additional Advocate General, Punjab, accepts notice on behalf of respondent Nos.2, 3, 5, 6 & 9.

Let five copies of the writ petition be supplied to him during the course of day failing which this order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.

In view of the nature of order which we propose to pass, it is not necessary to seek any counter-reply from respondent Nos.2, 3, 5, 6 & 9 nor respondent Nos.1, 4, 7 & 8 are required to be served at this stage.

[2] The petitioner is a Residents Welfare Association representing the residents of G.B.M. Apartments, Kurali Road, Kharar. The above-stated residential colony has been set-up by respondent No.1-a private builder under the licence granted in accordance with the provisions of the Punjab

Apartment and Property Regulation Act, 1995.

[3] The grievance of the petitioner-Association in the instant case is that though lay-out plans were sanctioned way back on 31.03.2008 but the private-builder has not yet completed the project and basic amenities, as were promised to the allottees, have not been made available so far. It is alleged that the petitioner's residents are running from pillar to post and have approached the authorities but no action is being taken by the Prescribed Authority against the private-builder under Section 4(5) of the 1995 Act.

[4] It is not disputed that the Real Estate (Regulation and Development) Act, 2016 has come into force w.e.f. 01.05.2017. The expressions 'development', 'development works' and 'external development works' are duly defined under Section 2(s), (t) & (w) of the 2016 Act, respectively. No sooner the 2016 Act came into force, every promoter, namely, builder is obligated to get itself registered under the Act. Such promoter is obligated under Section 11 (3) & (4) of 2016 Act to make available the allottees not only the complete information but also the “essential services” as well as other amenities on reasonable charges. Similarly, Section 14 of 2016 Act obligates the promoter to adhere to the sanctioned plans and project specifications. In other words, the private-builder cannot deviate from the sanctioned lay-out plans and is required to execute the project strictly in accordance with the sanctioned lay-out plans.

[5] In the event of any dereliction of responsibility or deviation from the duties assigned under the 2016 Act, the Real Estate Regulatory Authority establishes under Section 20 of the 2016 Act has been empowered to take necessary action in exercise of its powers under Section 32 of the Act to protect the interest of the allottees and for that purpose even power to

grant interim relief as provided under Section 36 of the Act, has been conferred. The Authority is further competent to exercise its power under Section 37 of the Act for issuing directions and under Section 38 of the Act to impose penalty on the promoters.

[6] Learned Additional Advocate General, Punjab informs that the State of Punjab has in exercise of its powers under 3rd proviso to Section 20 (2) of 2016 Act, notified the Principal Secretary, Department of Housing, Punjab, as the Real Estate Regulatory Authority till such Authority is established in accordance with Section 20 of the Act.

[7] In this view of the matter, we relegate the petitioner-Association to approach the above-stated Authority within one week whereupon the Regulatory Authority shall call for the records and redress the petitioner's grievance in accordance with law and keeping in view the powers vested in it under the provisions of 2016 Act. Let the needful be done within a period of three months from the date of submission of the petition.

The writ petition stands disposed of accordingly.

[SURYA KANT]
JUDGE

May 03, 2017
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[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No