

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

CWP No.12795 of 2018
Date of Decision:25.05.2018

M/s Chandigarh Royale City Promoters (P) Ltd.

. Petitioner

Vs.

Permanent Lok Adalat, Public Utility Services, SAS Nagar Mohali and
another

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr. R.S. Modi, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner has challenged the award of the Permanent Lok Adalat, Public Utility Services, SAS Nagar Mohali [for short 'the PLA'] dated 9.10.2017 by which an application filed by respondent No.2 under Section 22-C of the Legal Services Authorities Act, 1987 [for short 'the Act'] has been allowed.

In brief, the petitioner is the builder. Respondent No.2 had booked a plot of 200 sq. yards in the Chandigarh Royale City Township which is to be developed by the petitioner. He executed an expression of interest and paid ₹4 lac as booking amount on 17.3.2011 vide receipt Ex.A2. The total sale consideration of the plot was fixed at ₹19 lacs @ ₹9500/- per sq. yard which included EDC as well. Respondent No.2 paid another sum of ₹4 lac on 30.6.2011 vide receipt Ex.A3. He paid a sum of ₹1,50,000/- by cheque on 14.11.2011 (Ex.A4), ₹2,50,000/- through cheque dated

15.11.2011 (Ex.A5) and ₹4 lac on 4.8.2012 vide receipt Ex.A6. Respondent No.2 paid ₹16 lacs to the petitioner but there was no information on the part of the petitioner about the procurement of licence for development of housing project. It has come on record that the petitioner got the permission from GMADA on 13.8.2012 for developing the residential colony. The PLA has observed that the petitioner has taken ₹16 lac from respondent No.2 between 14.3.2011 to 21.8.2012 and at that time petitioner did not have any permission from the authorities to set up the residential colony though respondent No.2 had paid almost 90% of the sale consideration i.e. ₹16 lacs out of total sale consideration of ₹19 lacs. The PLA thus directed the petitioner to refund ₹16 lac to respondent No.2 with interest and also awarded compensation for mental agony and harassment apart from awarding the litigation expenses.

Learned counsel for the petitioner has submitted that the PLA had no jurisdiction to decide the case on merits. It is submitted that in the case of disputed questions of facts, the matter should have been sent to the Civil Court.

I am not in agreement with the contention raised by counsel for the petitioner because the PLA has been given the power both of conciliation and adjudication. However, the first hour of justice at the hands of PLA is the hour of compromise/conciliation and in case the parties fail to arrive at any amicable conciliation/resolution then as per Section 22-C(8) of the Act, the PLA has the jurisdiction to decide the dispute on merit.

In the present case also, the PLA has specifically mentioned in para No.7 of its impugned order that a copy of terms of possible settlement

was supplied to the parties for their consideration, bringing to their notice that if they reached to an agreement then they shall sign the settlement agreement on the basis of which the award could be passed but during the course of proceedings efforts were made to persuade the parties for settlement but they failed to reach to an amicable settlement and therefore, the PLA was left with no alternative but to decide the case on merit in terms of Section 22-C(8) of the Act. Thus, there is no error on the part of the PLA, who has decided the issue involved in the present case on merits which is not that intricate which could have been sent for the determination/adjudication by the Civil Court as respondent No.2 has proved the payment made by him by way of documentary evidence and the petitioner has failed to prove that during the period in which the amount was received by it from respondent No.2 it had the permission to develop the colony.

Thus in view of the aforesaid facts and circumstances, I do not find any reason to interfere in this case.

Dismissed.

25.05.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*