

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

CWP No. 8667 of 2016 (O&M)

Date of decision: 15.10.2018

Nitin Nisar and others

.. Petitioners

vs

State of Haryana and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Mahabir Singh Sindhu**

Present Mr. D. S. Patwalia, Senior Advocate with
Mr. Amit Jhanji, Advocate, for the petitioners
in CWP No. 8667/2016,
Mr. Ashok Aggarwal and
Mr. Anand Chhibbar, Senior Advocates with
Mr. Vivek Sharma, Mr. Mukul Aggarwal
and Mr. Vaibhav Sahini, Advocates, for the petitioner
in CWP No. 10272/2016, for respondent nos. 4 and 5
in CWP No. 8667 of 2016, for respondent nos. 3 and 4
in CWP No. 31 of 2017 and for respondent no. 4
in CWP No. 25173 of 2018,
Mr. Deepender Singh, Advocate for
Mr. Raman Sharma, Advocate, for the petitioner
in CWP No. 25173/2018.

None for the petitioner in CWP No. 31 of 2017.

Mr. Lokesh Sinhal, Additional Advocate General, Haryana.

Mr. Puneet Bali, Senior Advocate with
Mr. Gaurav Chopra, Advocate, for respondent -
M/s Ferrous Infrastructure Private Limited
in CWP Nos. 8667, 10272 of 2016 and 25173 of 2018.

Mr. Aman Bahri, Advocate, for the applicant/intervener
in CM No. 9810-CWP/2018 in CWP No. 8667/2018.

Rajesh Bindal, J.

This order will dispose of four writ petitions bearing CWP Nos.
8667, 10272 of 2016, 31 of 2017 and 25173 of 2018, as common questions
of law and facts are involved therein.

Status report by way of affidavit of Jitender Sihag, Chief Town Planner, Haryana, Department of Town and Country Planning, Haryana, Chandigarh, on behalf of respondent nos. 2 and 3, dated 15.10.2018, filed in CWP No. 10272 of 2016, in Court, is taken on record.

CWP No. 8667/2016

The present petition has been filed by the allottees of flats challenging order dated 22.4.2016/ 25.4.2016 passed by the Director General, Town & Country Planning, Haryana, in pursuance to direction issued by this Court in CWP Nos. 2508 of 2015 filed by the allottees of flats to be constructed by M/s Ferrous Infrastructure Private Limited. The order suggests that to safeguard the interest of the allottees, as there was inter-se dispute between the two builders, in case the construction has been done as per the approved building plan and the building bye-laws, the process be started to give possession to the allottees at the earliest.

Status report filed by Atma Ram, Assistant Commissioner of Police, Central, District Faridabad, dated 12.10.2018, in the present writ petition, is taken on record.

CWP No. 10272/2016

In the present writ petition challenge has been made by M/s Maximal Infrastructure Private Limited (Formerly known as Triveni Ferrous Infrastructure Private Limited) to the same order dated 22.4.2016/ 25.4.2016 passed by the Director General, Department of Town & Country Planning, Hayana.

CWP No. 31/2017

The petitioners herein are the allottees of flats to be constructed by M/s Triveni Infrastructure Development Company Limited, which is under liquidation now, challenging the communication dated 23.12.2016 passed by the Director General, Department of Town & Country Planning, Haryana, rejecting the request for transfer of part of the license.

CWP No. 25173/2018

Present petition has been filed by the Association of the allottees of flats to be constructed by M/s Ferrous Infrastructure Private Limited, for a direction to the builder to hand over possession of the flats to the allottees.

At the time of hearing, it was pointed out that M/s Ferrous Infrastructure Private Limited has filed complaints before the Real Estate Regulatory Authority, Haryana (for short, 'the Authority'), raising the dispute regarding non-renewal of license by the transferor thereof in favour of M/s Maximal Infrastructure Private Limited, part of which was purchased by M/s Ferrous Infrastructure Private Limited, to which the stand of learned counsel appearing for M/s Maximal Infrastructure Private Limited is that part of the license was not sold rather only rights to develop and market the flats to be constructed on a portion of land, were transferred.

We are not opining on the facts stated by learned counsel for the parties.

Considering the provisions of the Real Estate (Regulation and Development) Act, 2016 and the purpose for which it has been enacted, we are prima facie of the view that the parties can approach the Real Estate Regulatory Authority, Haryana, having jurisdiction in the matter, especially when two complaints filed by M/s Ferrous Infrastructure Private Limited are already pending there.

It was pointed out at the time of hearing that complaints filed by M/s Ferrous Infrastructure Private Limited have not been taken up for hearing because of pendency of present bunch of writ petitions. The issue raised in the petition filed by M/s Maximal Infrastructure Private Limited was regarding non-renewal of license issued to the original licensee, construction of flats by the transferee, rights to develop and market the flats to be constructed on part of the licensed area and the removal of any non-compoundable violation and to comply with all the conditions laid down for grant of occupation certificate.

Number of issues were raised in the different affidavits filed in this Court, however, we are not opining on any of the violations mentioned in the affidavits. Considering the fact that the stand taken by counsel appearing for M/s Ferrous Infrastructure Private Limited is that 288 flats have been completed in four towers for which occupation certificate has been applied for. In the interest of the investors, in our view, it would be appropriate if the Authority adjudicates the matter on merits at the earliest, preferably within four months of its filing, when the parties put their appearance. As all the parties are represented here, their service may be effected by adopting any proper mode to expedite disposal of matter.

If any of the petitioners before this Court has any grievance, which has yet not been raised before the Authority, he shall be at liberty to raise the same before the Authority including the issues which have been raised in the present writ petitions.

The writ petitions stand disposed of accordingly.

(Rajesh Bindal)
Judge

15.10.2018
vs

(Mahabir Singh Sindhu)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No