

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.18436 of 2015 (O&M)

Date of Decision: 15.01.2019

M/s Piyus Buildwell India Ltd.

... Petitioner

Versus

Permanent Lok Adalat, Faridabad and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Mr. Harish Goyal, Advocate
for respondent Nos.2 and 3.

ARUN MONGA, J. (ORAL)

The present petition has been filed for issuance of a writ in the nature of *certiorari*, *inter alia*, seeking to quash the impugned order dated 14.07.2015 (Annexure P-4) passed by learned Permanent Lok Adalat, Public Utility Services, Faridabad.

2. The petitioner is builder/developer who is carrying out development in the project named as “Piyush Heights, Sector-89, Faridabad.”

3. Flat buyer/Respondent No.2 deposited 30% of the booking amount, i.e. Rs.7,76,540/- on 02.02.2007 with the petitioner against total cost of the flat, which is stated to be Rs.30,70,449/-. Respondent No.2 later on deposited more money and out of the total cost and he has already deposited Rs.26,27,575/-. The balance is to be paid at the time of giving possession.

4. Respondent No.2 having waited for fairly a long period, approached the Permanent Lok Adalat seeking possession of his flat.

5. It is the case of the respondent/flat buyer that the delay for completion of project is entirely attributable to the petitioner-company and, therefore, any cost of escalation qua the same cannot be fastened on the flat buyer.

6. The petitioner took three preliminary objections before the permanent Lok Adalat viz.

(a) That the Permanent Lok Adalat did not have pecuniary jurisdiction.

(b) That the Permanent Lok Adalat does not have jurisdiction to hear the matters of real estate.

(c) Power of the Lok Adalat is confined only to the mediation between the parties and it is not vested with the power to pass any order on merits.

7. Learned counsel for respondent/flat buyer at the outset objects to filing of the instant writ petition on the ground, that the same is frivolous. Contends that while passing the impugned order, the learned Permanent Lok Adalat has threadbare gone is to said preliminary objections, had given due consideration and proper reasons thereof have been recorded. He further points out that the petitioner-company admittedly has received almost 85% of the cost of the flat and the delay is entirely attributable to the petitioner. The application before the Permanent Lok Adalat objecting to jurisdiction as also filing the present writ petition is nothing but a tactic to delay the mitigation of grievance of the flat buyer.

8. I have gone through the contents of the writ petition as also the other record appended in the pleadings before this Court.

9. A perusal of the impugned order fairly reflects that the pecuniary jurisdiction of the Permanent Lok Adalat has been enhanced to Rs.1 crore vide

Gazette Notification dated 20.03.2015 by the Central Government. The property in question being much less than of Rs.1 crore, therefore, the objection of the pecuniary jurisdiction is completely misplaced.

10. As regards the powers of the Permanent Lok Adalat being confined only to the mediation between the parties, the same does not mean to seeking of judicial scrutiny in view of the judgment rendered by this Court in case titled as ***“Magma HDI General Insurance Co. Ltd. and another Vs. Ashok Kumar and another reported as 2016(1) PLR 42”***. In the said judgment, this Court has held that in the cases relating to Public Utility Services, if the parties failed to arrive at any settlement before the Permanent Lok Adalat, it is empowered under Section 22C(8) of the Act to pass appropriate orders on merits while deciding the dispute between the parties after giving the reasonable opportunities of hearing to both the parties, albeit, the said power is to be exercised after affording an opportunity to conduct reconciliation proceedings between the parties in the manner as it deems fit.

11. In view thereof, the objection of the petitioner-company that the power of the Permanent Lok Adalat is confined only to mediation proceedings is not sustainable. The power to refer the parties to mediation proceedings in any case, is not mandatory but merely directory in nature. Failure of one or any of the party to not participate in the mediation or refusal to participate, does not disentitle the other to proceed with its case on merits.

12. As regards the third objection, the same also lacks any substance or merit. The word 'estate' has been included in definition clause of Public Utility Services under the Legal Services Authority Act. The meaning of word 'estate' would clearly cover the disputes between flat buyers/consumers in respect of the services rendered/to be rendered by the developers.

13. The respondent/flat buyer, therefore, was fully justified in approaching the Permanent Lok Adalat to seek mitigation of his grievance under the Legal Services Authority Act.

14. In these circumstances, I find no irregularity in the order passed by the Permanent Lok Adalat and the same is accordingly upheld. Resultantly, the writ petition is dismissed with no order as to costs.

15.01.2019

rekha sharma

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*