

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-26664-2019 (O&M)
Date of Decision: 19.09.2019

Parsvnath Developers Ltd. & another

--Petitioners

Versus

Permanent Lok Adalat & another

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Ashwani Talwar, Advocate for the petitioners.

Mr. Jagbir Singh, Advocate for
Mr. Manoj Chahal, Advocate for
respondent no.2/caveator.

TEJINDER SINGH DHINDSA.J (Oral)

Pleadings on record would indicate that respondent no.2 herein filed an application under Section 22-C of the Legal Service Authorities Act, 1987 before the Permanent Lok Adalat for Public Utility Services, Panchkula against the petitioners herein. Suffice it to take note that the claim essentially was pertaining to interest for the amount that had allegedly been deposited by the applicant with the developer pertaining to Flat Unit No.T-9/G01 changed to Flat Unit No.T-1/602.

The developer filed an application seeking dismissal of the complaint by raising a preliminary objection that respondent no.2 had earlier filed a Consumer Complaint No.CC/159/2017 before the State Consumer Disputes Redressal Commission, Panchkula seeking refund of the amount paid with interest and pursuant to a settlement having been arrived at, the complaint had been withdrawn. As such, the developer took a stand that it was not open for respondent no.2 to pursue the application under Section 22-C of the Legal Service Authorities Act.

The instant petition is directed against the order dated 25.7.2019 (Annexure P-2) whereby the objection raised by the developer has not been sustained and the application moved for dismissal of the petition under Section 22-C of the Legal Service Authorities Act at the very threshold has been declined.

Counsel for the petitioners as also for the respondent-caveator have been heard.

The reasoning adopted by the Permanent Lok Adalat while passing the impugned order is in the following terms:-

“The main contention of the applicant is that the respondent no.1 has already given the possession of flat no. T-1-602 measuring 1780 sq. ft. to the petitioner vide letter dated 18-04-2018 and the same was accepted by the petitioner on “As is where is basis” for fit-out and the petitioner had further agreed to complete the remaining unfurnished work by his own but the claim/contention of the applicant has been denied by the opposite party by saying that the competent authority has not issued any occupation certificate to the respondents till date and without occupation certificate the respondents have no right to offer or possession to anybody and further that the basis amenities are not there in the project. To satisfy this objection of petitioner or to satisfy the court that the competent authority has given occupation certificate to the respondents or that the respondents have provided basic amenities in the project, nothing has been brought out by the respondents/applicant on record. The averments and counter averments of the parties require thorough probe on merits and at this stage without going into the merits of the case it is very difficult to believe the contention of the applicant that the disputes between the parties has been full and finally settled qua the subject matter in dispute. Moreover at this stage contention of the petitioner that the cause of action of the

present litigation is different from the cause of action which resulted into earlier complaint before the State Consumer Disputes Redressal Commission, Panchkula is different, cannot be brushed aside. Consequently we do not find any merit in this application and accordingly the same is dismissed. Be tagged with the main case file. Accordingly the application in hand shall disposed of.”

Perusal of the afore-reproduced extract of the order clearly reveals that the Permanent Lok Adalat has taken a view that the issue with regard to occupation certificate and providing other basic amenities in the project would have to be gone into and as such, it would not be prudent and feasible to take a view at a preliminary stage that the dispute stands fully settled between the parties on account of the withdrawal of the earlier complaint before the State Consumer Disputes Redressal Commission, Panchkula.

In the considered view of this Court, there is no patent infirmity in the view taken by the Permanent Lok Adalat and as reflected in the impugned order at Annexure P-2.

As per scheme of the Legal Service Authorities Act, 1987 in case conciliation proceedings are not fruitful the Permanent Lok Adalat would then enter into adjudication on merits of the case. At that stage all contentions and grounds on either side would be open.

The matter ought to be taken on merits so as to be decided by the Permanent Lok Adalat.

No intervention in the impugned order, as such, is called for.

Writ petition is disposed of.

It is, however, clarified that the observations contained in the impugned order at Annexure P-2 made by the Permanent Lok Adalat would not influence the final order that may be passed.

(TEJINDER SINGH DHINDSA)
JUDGE

19.09.2019
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No