

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

**RA-CW-238-2020 in/and CWP-32437-2019
Date of Decision: 2nd December, 2020**

Altus Space Builders Pvt. Ltd.

....Applicant/Petitioner

VERSUS

Union of India and others

...Respondents

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN**

Present: Mr. Amit Sharma, Advocate for the Review
Applicant/Petitioner.

Mr. Shobit Phutela, Advocate for Respondent No.1.

Mr. Sahil Sharma, Deputy Advocate General, Punjab for
Respondents Nos. 2 to 4.

Dr. S. Muralidhar, J.

RA-CW-238-2020

1. This is an application seeking review of the judgment dated 16th October, 2020 in CWP No. 8548 of 2020 and other connected matters (*Janta Land Promoters Private Limited v. Union of India and others*). By the said judgment, this Bench had disposed of a batch of 26 matters, which included CWP No. 32437 of 2019 filed by the present Review Applicant.

2. In the above judgment dated 16th October, 2020, the Court *inter alia* held Regulations 7 and 8 of the Punjab Real Estate Regulatory Authority Procedure Regulations, 2017 to be *ultra vires* the Real Estate (Regulation and Development) Act, 2016 ('Act') inasmuch as the said regulations mandated that a complaint under the Act be entrusted with a Single Member Bench of the Real Estate Regulatory Authority ('Authority') or

Adjudicating Officer. The Court also held that a Single Member of the

Real Estate Appellate Tribunal, Punjab ('Appellate Tribunal') could not validly pass orders in the appeals before it, the same being contrary to the requirement in terms of Section 43 (3) and 45 of the Act.

3. The present application seeks review of the aforesaid judgment to the extent that it upheld the validity of the orders dated 4th July, 2019 and 23rd September, 2019 of the Authority and the Appellate Tribunal, thereby dismissing CWP No. 32437 of 2019, while failing to notice that the said impugned orders had been passed by a Single Member of the Authority and a Single Member of the Appellate Tribunal respectively.

4. It is stated that the issues of whether a Single Member of the Authority can validly pass orders on a complaint under the Act and whether a Single Member of the Appellate Tribunal can validly pass orders in appeals before it, had been considered and answered in the negative in the above judgment dated 16th October, 2020.

5. It is further stated in the application that even though the ground that the impugned orders were without jurisdiction for being passed by a Single Member of the Authority and Appellate Tribunal was not averred in the writ petition itself, it was raised as an issue in the short synopsis filed by the Petitioner on 28th September, 2020. It is argued that the ground being one that involves a question of law, it can be permitted to be raised at any stage in the proceedings.

6. Having heard learned counsel for the parties, the Court is inclined to agree with the Review Applicant/Petitioner. Although the above ground had not been raised in the writ petition itself, it involves a question of law, which can be raised at any stage of the proceedings.

7. In that view of the matter, the review application is allowed. The judgment dated 16th October, 2020 is recalled to the extent that CWP No. 32437 of 2019 stood dismissed by the said judgment. The writ petition is restored to file.

CWP-32437-2019

8. The prayers in the writ petition are as under:

- (i) For quashing of the order dated 4th July, 2019 of the Authority as being without jurisdiction.
- (ii) For setting aside the order dated 23rd September, 2019 of the Appellate Tribunal dismissing the application of the waiver of the pre-deposit.
- (iii) For a direction to the Appellate Tribunal to entertain the Petitioner's appeal against the order of the Authority, without insisting on any pre-deposit.

9. For the reasons explained in the judgment dated 16th October, 2020 in CWP No. 8548 of 2020 (*Janta Land Promoters Private Limited v. Union of India and batch*), the order dated 4th July, 2019 of the Authority and the order dated 23rd September, 2019 of the Appellate Tribunal are hereby quashed for lack of jurisdiction. The complaint in question shall now stand remanded to the Authority, constituted in terms of Section 21 of the Act, for a fresh disposal in accordance with law. Accordingly, prayer (iii) is not required to be considered.

10. The petition is disposed of in the above terms.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

2nd December, 2020

Davinder

Whether speaking/reasoned Yes/No

Whether reportable Yes/No