

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CWP No.3607 of 2021
Decided on : 16.02.2021**

M/s Ramprastha Promoters and Developers Pvt. Ltd. ... Petitioner

Versus

State of Haryana and others ... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Arun Walia, Senior Advocate with
Mr. Mukul Goyal, Advocate for the petitioner.

(The proceedings are being conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The present writ petition has been filed under Article 226 of the Constitution of India seeking direction to provide moratorium to the petitioner company for the COVID-19 period.

The said claim is based upon the instructions issued, dated 23.10.2020 by the Government of India, Ministry of Finance, Department of Financial Services (Annexure P-2). The amounts which are due from the petitioner company have arisen out of the consumer disputes whereby the allottees had filed the complaints before the State Consumers Disputes Redressal Commission, Haryana wherein directions had been issued to refund the amount while allowing the complaints on 04.09.2018 (Annexure P-1).

The specific relief was of penal clause whereby interest element was enhanced, in case the amounts were not refunded within a period of 3 months from the date the order was passed on 04.09.2018.

Mr. Walia has referred to the payment chart (Annexure P-3) to show that almost more than the double amount has been paid towards the complainants and thus prayed for the benefit of the said instructions.

This Court is of the opinion that firstly the instructions are not applicable to the complainants wherein complaint has been allowed on account of deficiency in service since possession had not been delivered during the permissible period. A reading of the instructions would go on to show that it is a scheme for grant of ex-gratia payment of difference between compound interest and simple interest for six months to borrowers in specified loan accounts. The scheme was by the Central Government which was applicable to the various loans taken. In such circumstances, keeping in view the settled principle that a writ of mandamus can only be issued where a legal or statutory right/duty is enforceable and in the absence of the same, the instructions being not applicable to the parties no direction can be issued for grant of mandamus.

Secondly, it is to be noticed that the petitioner company as such had to refund the amount within a period of 3 months whereby interest @ 12% per annum would only be payable. They themselves have invoked the penal clause as such by not making the payment within the prescribed period. Even otherwise, it was satisfied when the order dated 04.09.2018 (Annexure P-4), was passed and had not filed the appeal before the National Consumers Disputes Redressal Commission. It is settled principle that due to the availability of an alternate and efficacious remedy, the writ Court jurisdiction should not be exercised. Reliance can

be placed upon the law laid down by the Apex Court in **United Bank of India Vs. Satyavati Tondon and others 2010(8) SCC 110.**

Resultantly, this Court is of the opinion that no case is made out to exercise its extraordinary writ jurisdiction in the present facts and circumstances.

The present writ petition is dismissed in limine in view of the above observations made.

16.02.2021

Parveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No