

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

**CWP-5777-2021 (O&M)
Date of decision: 02.12.2021**

Athena Infrastructure Ltd.

.... Petitioner

Vs.

State of Haryana and others

... Respondents

**CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.**

Present:- Mr. Ajiteshwar Singh, Advocate, for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, with
Mr. Saurabh Mago, Assistant Advocate General, Haryana.

Mr. Ankur Mittal, Advocate, with
Ms. Kushaldeep K. Manchanda, Advocate,
Mr. Shivam Garg, Advocate,
Ms. Varsha Sharma, Advocate for respondent-RERA.

....

TEJINDER SINGH DHINDSA , J. (Oral)

The instant writ petition was filed raising the following
prayers:-

“i. Issuance of a writ, order or direction, in the nature of CERTIORARI, quashing the order dated December 19, 2019, as uploaded on January 17, 2020, Annexure P/10, passed by the Real Estate Regulatory Authority, Respondent No.3, in complaint case no. 3490 of 2019 titled as 'Janaki Aggarwal & Anr. v Athena Infrastructure Ltd.,' being inter alia illegal, arbitrary, without jurisdiction inasmuch as Respondent No. 3 has misdirected itself in entertaining and deciding the complaint filed on behalf of Respondent nos. 4 & 5 especially, especially when it had been filed in such form/manner, which as per the scheme of the Real Estate (Regulation and Development) Act, 2016 could only be said to be maintainable before the Adjudicating Officer and not before Respondent No.3;

OR IN THE ALTERNATIVE TO PRAYER (1)

ii. Issuance of a writ, order or direction, in the nature of CERTIORARI, quashing/setting aside the order of September 8, 2020, Annexure P/11, whereby the Petitioner's appeal being Appeal No.185 of 2020, titled as 'Athena Infrastructure Ltd. V Janaki Aggarwal & Anr.' was dismissed for want of deposit of the entire amount as stipulated under Section 43(5) of the 2016 Act, with a further direction of MANDAMUS directing Respondent No. 2 to reinstitute and entertain the Petitioner's appeal, without requiring the Petitioner to first deposit with the Appellate Tribunal, Respondent No.3, the amount erroneously held to be due and payable to Respondent Nos.4 & 5, as the stated condition is not only onerous and would ultimately harm/jeopardise the completion of the project, but also, in the facts and circumstances of the present case, there arises no occasion to pre-deposit the amount as the order impugned, apart from being wholly without jurisdiction, is also, non-speaking and cryptic and as such, is liable to be set aside; and

iii. Issuance of any other appropriate writ, order or direction in favour of the Petitioner, which this Hon'ble Court may deem fit and proper, in the peculiar facts and circumstances of the present case."

Learned counsel for the petitioner submits that a settlement has since been arrived at with the private respondents/allottees and as such, he has instruction not to pursue the instant writ petition.

In the light of such categorical statement made by counsel at bar, the writ petition is dismissed as not pressed.

Needless to mention that interim direction if, any, issued in the matter would cease to operate.

(TEJINDER SINGH DHINDSA)
JUDGE

02.12.2021
harjeet

(VINOD S. BHARDWAJ)
JUDGE

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| i) Whether speaking/reasoned? | Yes/No |
| ii) Whether reportable? | Yes/No |