

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

109/34

**CWP No.14474 of 2021
Date of decision :30.11.2021**

Athena Infrastructure Ltd.

.....Petitioner

VERSUS

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-Real Estate Regulatory Authority

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 August 21, 2019, as
uploaded on September 19, 2019, Annexure P/7, passed by the
Real Estate Regulatory Authority, Respondent No.3, in
complaint case no. 918 of 2019 titled as 'Yagvendra
Chaturvedi & 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/8, whereby the Petitioner's appeal being Appeal No.183 of 2020, titled as 'Athena Infrastructure Ltd. V Yagvendra Chaturvedi & 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

(VINOD S. BHARDWAJ)
JUDGE

30.11.2021
anil

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>