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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

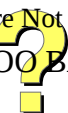
Date of Decision: 13.05.2021

+ CM(M) 372/2021 & CM APPL. 16343/2021 & 16344/2021
TDI INFRATECH LTD. Petitioner
Through: Ms. Kanika Agnihotri & Mr. Jai
Vikram Singh, Advs.
versus
RANJIT SINGH Respondent
Through: None

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
NAVIN CHAWLA, J. (Oral)

This hearing has been conducted through video conferencing.

1. This petition has been filed challenging the order dated 10.03.2021 passed by the learned National Consumer Disputes Redressal Commission (hereinafter referred to as 'the learned National Commission') in First Appeal No. 615 of 2020, titled ***M/s TDI Infratech Ltd. v. Ranjit Singh***, directing stay of the order dated 28.01.2021 passed by the learned State Consumer Dispute Redressal Commission, Punjab (hereinafter referred to as the 'State Commission') in Execution Application No. 124 of 2020, subject to the petitioner, who is the appellant in the Appeal before the learned National Commission, depositing 50% of the decretal amount in terms of the order dated 04.03.2020 of the learned State Commission in Consumer Complaint No. 828 of 2019.



2. To appreciate the submission made by the learned counsel for the petitioner, certain facts leading up to the present petition would need to be noticed.

3. The learned State Commission vide its order dated 04.03.2020 has allowed the complaint filed by the respondent herein against the petitioner, with the following directions:

“21. Accordingly this complaint is allowed and following directions are issued to the opposite parties:-

- 1(i) to deliver vacant physical possession of the fully developed plot in question along with “Completion Certificate” from the concerned competent authority as per the approved layout plan and all the promised amenities subject to payment of balance payment, if any, without any interest or penal interest etc.;*
- 1(ii) to execute the sale/conveyance deed and get the same registered in the name of the complainant for which the expenses shall be borne by the complainant;*
- 1(iii) to pay compensation for causing financial loss and depriving the complainant of the use of the said amount of ₹30,18,040/- during the period the same remained with the opposite parties at the rate of 12% per annum with effect from 15.7.2013 i.e. the promised date of delivery of the fully developed plot till the date of actual*

delivery of possession of the fully developed plot in question as directed at (i) above;

1(iv) to pay ₹82,512/-, as compensation, for causing financial loss and depriving the complainant of the use of the said amount of ₹2,94,226/- during the period the same remained with the opposite parties i.e. for the period from 4.3.2015 to 3.7.2017 at the rate of 12% per annum, already calculated by the complainant in the complaint;

1(v) to pay ₹40,000/-, as composite compensation, for mental tension and harassment suffered by the complainant including litigation costs.”

4. The petitioner challenged the above order by way of an Appeal, being First Appeal No. 615 of 2020, before the learned National Commission. The learned National Commission on 12.10.2020, passed the following interim order:

“The Ld. counsel for the appellant states on instructions that the appellant does possess the requisite completion certificate and is in a position to offer legal possession of the allotted plot to the complainant. She also states that the appellant is ready and willing to execute the sale deed/conveyance deed and get it registered in the name of the complainant on payment of the balance principal amount.

Issue notice limited to direction No. 1(iii) to 1(v) at pages 23-24 of the impugned order to the respondent/complainant for



14.01.2021 subject to the following conditions:-

(1) The appellant shall deliver possession of the allotted plot bearing No. 1412 to the complainant within 3 weeks from today.

(2) The appellant shall not insist upon any further payment from the complainant before delivering possession of the allotted plot to him.

(3) The sale deed in favour of the complainants will also be executed within two weeks of the delivery of possession.

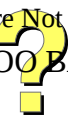
(4) The appellant shall deposit with the concerned State Commission interest @ 6% p.a. w.e.f. the committed date of delivery till the date on which the possession was offered/is offered after deducting from that compensation the balance principal amount, if any, payable by the complainant to the appellant.

The execution of the impugned order shall remain stayed on the appellant complying with the aforesaid directions. Dasti.”

5. The petitioner claims to have complied with the above order by issuing a Possession Letter dated 22.10.2020 to the respondent.

6. The respondent, however, contends that in absence of a Completion Certificate and provision of necessary facilities, the offer of possession by the petitioner is meaningless and cannot be accepted in terms of the order dated 12.10.2020 of the learned National Commission.

7. The learned State Commission by its order dated 28.01.2021, accepted the submissions of the respondent by holding that there was

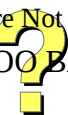


non-compliance with the directions of the learned National Commission and granted two weeks time to the petitioner to comply with the order or produce an order of stay on the execution.

8. In the said order, the learned State Commission has observed as under:

“ The learned counsel for JDs was asked to inform whether direction No.1(i) and 1(ii) had been complied with or not?

Learned counsel for JD No.1 relies upon the photographs. Photographs do not depict true picture. It cannot be authenticated whether these are of site in question or of somewhere else. It is not sufficient. Certificate of development is required from the competent authority i.e. PUDA/GMADA as per Govt. of Punjab, Department of Housing and Urban Development (Housing II Branch), notification No.4966-CTP (Pb)/SP-458 dated 02.09.2014. In view of these facts there is non-compliance of the order issued by the National Commission. There is also non-compliance of condition of Department of Housing and Urban Development regarding delivery of possession to allottee. So far as the second condition is concerned that the possession is necessary before executing the sale deed. If the possession is not given then sale deed cannot be executed because it is specifically mentioned in the sale deed that possession has been delivered at the spot to the allottee. So there is a non-compliance of the same. Counsel for the DH further states that there is specified direction with regard to the handing over the possession that it should be as per approved layout plan and promised amenities, subject to payment of balance amount, if any. No amount is payable by the DH. JDs have not placed on record any such document that all the facilities are available specifically



electricity, water and sewerage and no certificate has been issued by the competent authority about the development as per Punjab Government notification referred in foregoing paragraph.

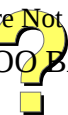
It is apparently clear that there is non-compliance of direction No.1(i) as well as direction No.1(ii)."

9. The petitioner then moved an application before the learned State Commission claiming that it had duly complied with the interim order passed by the learned National Commission. The said application was considered by the learned State Commission on 28.01.2021, and the learned State Commission reiterated its earlier conclusion that there was non-compliance of the orders of the learned National Commission and the learned State Commission and therefore, decided to proceed with the Execution Petition.

10. The petitioner challenged the said orders before the learned National Commission by way of an interim application on which the learned National Commission has been pleased to pass the Impugned Interim Order, which reads as under:

" Heard arguments on admission of this appeal.

Learned counsel for the appellant, at the outset, submitted that the appeal is, in-fact, restricted only to order contained in State Commission's order, para no. 21 (1) (iii) which has granted compensation to the respondent/complainant over and above vacant possession of the fully developed plot. She fairly submits that appellant is willing to comply with the para of the impugned order



dealing with handing over the physical possession along with completion certificate but would like to contest the other part of the order which deals with compensation.

Learned counsel for the respondent/complainant submits that implementation of the order of the State Commission directing handing over of physical possession with completion certificate has not been done and cannot be done by the OP for the reason that they do not have the full completion certificate. What they have is only a partial completion certificate which is not acceptable to the respondent/complainant.

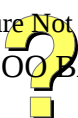
In view of the rival contentions of the learned counsels, it would be necessary to admit this appeal and hear it on merits.

Accordingly, this appeal is admitted subject to just exceptions.

Notice of the appeal can be taken as having been served upon the respondent/complainant as counsel for the respondent/complainant is present today.

I.A. No.5680 of 2020 is an application for stay of the impugned order of the State Commission. Stay is granted subject to the appellant depositing 50% of the decretal amount of the impugned order of the State Commission as contained in para 22 thereof which pertains to the situation where the appellant/OP is not in a position to deliver the possession of the fully developed plot as per para 21 of the same impugned order, within four weeks. If the amount is so deposited, it shall be kept in a F.D. initially for a period of one year renewable thereafter as necessary. If the amount is not so deposited, the stay shall stand vacated without any further order. Accordingly, I.A. No.5680 of 2020 is disposed off.

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IA 2092/2021 seeking stay of execution orders in EA 124/2020, in view of the order above, has become infructuous and is accordingly disposed off.

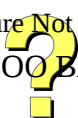
List on 29.7.2021.”

11. The learned counsel for the petitioner submits that the petitioner was in complete compliance with the order dated 12.10.2020 of the learned National Commission and therefore, the learned State Commission had erred in proceeding with the Execution Petition. She submits that all documents showing due permissions from the concerned Authorities for handing over possession of the land in question to the respondent were placed before the learned State Commission, however, were not considered.

12. She further submits that by the Impugned Order dated 10.03.2021, the learned National Commission has in fact reviewed its earlier order dated 12.10.2020 without there being an application filed by the respondent to this effect. The learned National Commission should have decided whether the petitioner was in compliance with its interim order or not before modifying the interim order dated 12.10.2020.

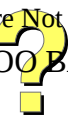
13. I have considered the submissions made by the learned counsel for the petitioner, however, find no merit in the same.

14. The directions issued by the learned State Commission in its order dated 04.03.2020 have been reproduced hereinabove. The learned National Commission vide its order dated 12.10.2020 had



granted an interim stay in favour of the petitioner subject to the fulfilment of the conditions which have also been reproduced hereinabove. The question before the learned State Commission therefore, was whether the petitioner has duly complied with the said conditions. The learned State Commission vide its order dated 28.01.2021 has come to a conclusion that the conditions are not complied with as the petitioner is not in possession of the Completion Certificate and requisite permissions from the concerned Authorities. The petitioner is aggrieved of the said finding and the issue is now pending adjudication before the learned National Commission. The learned National Commission having taken note of the rival contentions of both the parties, has passed the Impugned Interim Order directing the petitioner to deposit 50% of the decretal amount while its appeal is being considered. The said amount has been directed to be kept in a fixed deposit.

15. I do not find any infirmity with the exercise of jurisdiction and discretion by the learned National Commission. As noted hereinabove, there is a contentious issue to be adjudicated before the learned National Commission as to whether the petitioner possesses the requisite permissions from the governmental authorities for offering possession of the land to the respondent. The assertion that similar offer has been accepted by the other allottees and the Sale Deed(s) have been executed by the other allottees, though may be a relevant consideration, cannot, at this stage, be considered as uncontrovertible proof of the petitioner having a valid Completion



Certificate, especially in absence of a document certifying the same in unambiguous terms. In these circumstances, the learned National Commission, in exercise of its jurisdiction and in its discretion, has found a balanced interim order. This Court is not exercising its jurisdiction as an Appellate Court over the said order.

16. The submission of the petitioner that the Impugned Order amounts to a review of the earlier interim order dated 12.10.2020, is also not acceptable for the reason that the order dated 12.10.2020 was conditional and *ad interim* in nature. In the above facts, the impugned order does not amount to a review of the order dated 12.10.2020 but in continuation thereof.

17. I, therefore, find no merit in the present petition. The same is dismissed. There shall be no order as to costs.

NAVIN CHAWLA, J

MAY 13, 2021/ns/rv/P