

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

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CWP-8146-2022.

Date of Decision: 29.04.2022.

Royal Heritage Resident Welfare Association (RHRWA)

....Petitioner.

Versus

State of Haryana and others

....Respondents.

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. Bikramjit Singh Baath, Advocate for the petitioner.

Amol Rattan Singh, J. (Oral)

On 22.04.2022 the following order had been passed by this court:-

“By this petition, filed under the provisions of Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus, directing respondents No.3 to 6 to take “a valid electricity supply meter of complete sanctioned load and installation of electric sub-station” from respondent No.3 at their own expense and to supply complete electricity load to the residents of society; and to stop using DG sets as the main source of power. The petitioner has further sought a direction to respondents No.5 to 7 to provide an appropriate approach road to the society as per the sanctioned layout plan; and further to install a suitable Sewage Treatment Plan (STP) keeping in view the capacity of such treatment requirement for the Royal Heritage Housing Project, in compliance with the Haryana Building Code 2017.

The petitioner has further sought a direction to respondents No.5 to 7 to recognize the petitioner 'Royal Heritage Resident Welfare Association' as the only valid resident's welfare association of the project 'Royal Heritage', Sector -70, Faridabad, for reach and every purpose, and to hand over maintenance of essential services, common area maintenance, IFMS and other 'ancillary handovers' and in fact to completely handover the society from builder to the petitioner-association.

Even before notice of motion has been issued, learned counsel for the respondent-State has pointed out that the project undertaken by respondents No.4 to 6 as is in question, should have been registered with the Haryana Real Estate Regulatory Authority under the provisions of Section 3 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter to be referred as 'the Act of 2016'); and consequently, at the first instance any grievance qua lack of infrastructure etc. as would normally be compulsory to be provided by the said respondents, would be within the jurisdiction of the Authority formed under that Act.

Hence, in our opinion the remedy of the petitioner at the first instance lies with the authority; however, Mr. Baath wishes to cite a recent judgment of the Supreme Court to the effect that in certain circumstances this Court would invoke jurisdiction under Article 226 of the Constitution of India to interfere in the matter, even before the RERA authority.

Though we have yet to go through that judgment which learned counsel for the petitioner wishes to rely upon, however, it is to be noticed that subject to what is stated therein, obviously exercising jurisdiction under Article 226 would be a discretionary remedy in very special circumstances once there is an alternative remedy already available with any person.

Adjourned to 29.04.2022.”

Today Mr. Baath, learned counsel for the petitioner, very fairly at the outset submits that as regards the judgment that he wished to cite it is on a different issue altogether.

However, he also submits that one aspect of the matter as has not been referred to in the aforesaid order of this court, is with regard to handing over of the maintenance etc. of the project to the petitioner association, which he submits was registered under the provisions of The Haryana Registration and Regulation of Societies Act, 2012, in the year 2016.

However, Mr. P.S. Chauhan, Senior Additional Advocate General, Haryana, has assisted this court in submitting that the registration is actually to be done under the Haryana Apartment Ownership Act, 1983.

Naturally, all those aspects should be gone into by the ld. Real Estate Regulatory Authority, upon the petitioner filing appropriate proceedings before it.

This petition is thus disposed of with liberty to approach the said Authority, with no comment made by this court on the merits of the petition, which would be issues to be gone into by the said Authority.

(AMOL RATTAN SINGH)
JUDGE

(LALIT BATRA)
JUDGE

29.04.2022

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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No