

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

104

CWP No.6060 of 2020(O&M)

Date of Decision: 11.07.2022

M/s Ferrous Infrastructure Pvt. Ltd.

.....Petitioner.

Versus

State of Haryana and others

....Respondents.

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

Present: Mr. Sourabh Goel, Advocate for the petitioner.

Mr. Ankur Mittal, Additional A.G. Haryana,
for respondents No.1 and 2.

Amol Rattan Singh, J.(Oral)

By this petition, the petitioner challenges the order of the learned Haryana Real Estate Regulatory Authority, Panchkula, by which the complaint filed by respondents No.3 and 4 herein before that Authority was allowed along with a large number of other such complaints pending before that Authority; and the petitioner and other developers (as were respondents in the other complaints) were directed to refund the amounts paid by the complainants along with interest calculated in terms of Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, with such interest to be calculated from the date of payments made by the complainants upto the date of uploading of the impugned order itself passed

by the Authority.

Upon Mr. Mittal, learned counsel for respondents No.1 and 2, submitting that the matter is squarely covered by the judgment of the Supreme Court in *M/s Newtech Promoters and Developers Ltd. Vs. State of U.P. and others [Civil Appeal Nos.6745-6749 of 2021 arising out of SLP (Civil) Nos.3711-3715 of 2021]*, learned counsel for the petitioner submits that though he cannot dispute that fact and that the ratio of the judgment would cover the case of the petitioner (which he says very fairly in our opinion), however, he submits that with the petitioner not having been allowed to file even a reply before the Authority, the matter deserves to be remanded to the Authority on that score alone, for hearing afresh.

Having considered that argument whereas otherwise learned counsel for the petitioner may not have been incorrect in his submission, however, firstly, the following part of the order of the Authority needs to be referred to in the context of the reply not being filed but with the complaint still decided nevertheless:-

“3. The Authority accordingly proceeded with disposal of the two complaints No.826 of 2018 (M/S Ferrous Infrastructures Pvt. Ltd.) and complaint No. 1402 of 2018 (Maximal Infrastructure Pvt. Ltd.) versus M/s Ferrous Infrastructure Pvt. Ltd. along with 2 other complaints, No.1343 of 2018 and complaint No.1344 of 2018. The order of disposal of the 4

complaints dated 1.10.2019 was uploaded on the website of the Authority on 15.10.2019.

4. Having disposed of the above said 4 complaints in accordance with the orders of the Hon'ble High Court, the Authority there-after took up the captioned 44 complaints for adjudication.

5. All the complaints were accordingly listed for hearing on 15.10.2019. Since detailed facts about the project had been captured in the orders dated 1.10.2019 in the 4 complaints with **lead complaint case No.826 of 2018**, the Authority disclosed its mind that individual complaints against the promoters of the project will be disposed of in accordance with findings of the Authority given in the order dated 1.10.2019.

6. When the matter was listed on 15.10.2019, Shri Saurabh Goel and Reshab Bajaj learned counsels appeared for respondent company (M/s Ferrous Infrastructure Pvt.Ltd.). Both the counsels stated before the Authority that respondents have not received copies of the complaints in any captioned complaints except in complaint No.762 of 2018. Reply in the said complaint No.762 had been filed by the respondents on 14.02.2019.

The Authority contradicted the stand of the learned

counsel for respondent that the respondents had not received copies of the complaints Courier receipts vide which all the complaints have been delivered at the addresses shown in Para 1 of this order were shown to them. Learned counsel Shri Reshab Bajaj, however responded by saying that the respondents had shifted from the given address, therefore, the copies of complaints appear to have been delivered to some unauthorised person. The Authority verified the address of the respondent as was shown in the agreement made with various complainants. It observes that the address at which the notice along with copies of complaint was delivered is the same as has been shown in the agreement. The respondents never intimated the changed address to the complainants. For argument's sake even if it is taken as correct that the respondents had shifted from the earlier address. the Authority considers that it was their responsibility to either informed the complainants of the changed address or to make arrangements for receipt of the mail at the earlier address.

xx xx xx

8. The Authority observes that the respondent M/s Ferrous

Infrastructure Pvt. Ltd. had duly received the notices in all the captioned complaints. A benefit of doubt was given to them on 15.10.2019 and accordingly the learned counsels for the respondent Shri Saurabh Goyal and Reshab Bajaj were asked to obtain copies of the notice from the registry. Accordingly, the respondents became fully aware of all the pending complaints.

9. Today both the learned counsel Shri Saurabh Goyal as well as Reshab Bajaj argued that they have not been in a position to file reply because they had not received copies of the complaints. In view of the foregoing discussion the Authority decides to dismiss their arguments and further decides to proceed with the matter for deciding it on merits. This entire bunch of 44 complaints is being disposed of together by this common order. Complaint No.762 of 2018 titled as Rakesh Kumar Versus M/s Ferrous Infrastructure Pvt. Ltd. is taken as the lead case.

10. All the counsels for the complainants spoke in unison that they had booked the apartments over 10 years ago and have also made substantial payments to the respondents. The respondents have not developed the project or have seriously violated the building plans as have been

observed in detailed by this Authority while disposing of 4 cross complaints with lead complaint No. 826 of 2018. They had sought the relief of possession of their apartments in accordance with law and provisions of agreement along with compensation for the delay caused by the respondents, but now in view of the findings of the Authority in lead complaint No.826 of 2018 the relief of possession of the apartments appears extremely difficult. Accordingly, the Authority may grant them suitable alternate relief.”

Learned counsel for the petitioner further points to Clause (vii) of paragraph 2 of the writ petition itself wherein it is stated that although the registered address of the petitioner was as had been mentioned in the complaint before the Authority, however, notices were sent by the Authority on other addresses, which fact would be clear from the notice available on the website of the Authority, due to which the notice and the copy of the complaint were not served upon the petitioner.

To repeat, whereas otherwise counsel for the petitioner would have been correct in his contention to that effect, however, once it is not denied that the matter is otherwise squarely covered by the judgment of the Supreme Court in *M/s Newtech Promoters and Developers Ltd.(supra)* and with learned counsel for respondents No.1 and 2 further submitting that

same view has been taken by this court even in *CWP No.17657 of 2020 titled M/s Sana Realtors Pvt. Ltd. Vs. The Haryana Real Estate Regulatory Authority and others (and other connected petitions), decided on 25.05.2022*, consequently, if the petitioner has any grievance at all qua the impugned order, it is obviously always open to it to challenge the same before the learned Haryana Real Estate Appellate Tribunal.

Consequently, finding no merit in the petition, it is dismissed.

(AMOL RATTAN SINGH)
JUDGE

(LALIT BATRA)
JUDGE

11.07.2022
D.Gulati

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