

In the High Court of Punjab and Haryana, at Chandigarh

RERA Appeal No. 17 of 2022 (O&M)

Date of Decision: 08.06.2022

Reserved On: 30.05.2022

Rise Project Private Limited

... Appellant(s)

Versus

Municipal Corporation, Faridabad

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rajiv Atma Ram, Senior Advocate
with Mr. Amandeep Singh Talwar, Advocate
for the appellant.

Mr. Lokesh Sinhal, Advocate
for the respondent.

Anil Kshetarpal, J.

1. While invoking the powers under Section 58 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as “the RERA Act, 2016”), the allottee has assailed the correctness of the order passed by the Haryana Real Estate Appellate Tribunal (hereinafter referred to as “the HREAT”).

2. On 25.05.2022, after hearing the preliminary arguments, the following order was passed:-

“The learned senior counsel representing the appellant, while drawing the attention of the Court to the observations made by the Tribunal at page 69 of the paper-book, contends that the Tribunal, after observing in the following manner, has proceeded to set aside the order dated 10.11.2021 and

16.04.2021:-

*“53. At the cost of repetition, it is pertinent to mention that the impugned order dated 10.11.2021 has totally reserved the observations/findings of the learned Authority in its previous order dated 16.03.2021 on the issue of payment of interest for delay in completion of infrastructure works. Such a somersault is not legally permissible. This problem arises as there is a tendency with this Authority to pass the multiple orders to substantially decide the rights of the parties instead of passing a composite order to dispose of the complaint deciding all the issues together. It is well recognized legal requirement that all the issues arising in the lis should be decided together by passing a composite order than in parts. Reference can be made to the Full Bench judgment of Hon’ble Himachal Pradesh High Court in case **Prithvi Raj Jhinga & Anr. Versus Gopal Singh & Anr., 2007(3) R.C.R.(Civil) 407**”.*

He submits that he has no objection if the Haryana Real Estate Regulatory Authority, Panchkula, is permitted to pass a composite comprehensive order deciding all the issues together in accordance with the views of the Tribunal as well as Full Bench of the Himachal Pradesh High Court.

Mr. Lokesh Sinhal, Advocate, learned counsel representing the Municipal Corporation, Faridabad, prays for

a short accommodation to examine the aforesaid contention and give his response.

List on 30.05.2022, for final disposal, in the urgent list”.

3. The learned counsel representing the parties have been heard at length and they have also filed a written synopsis along with the gist of their respective arguments. The issue which arises for adjudication is “As to whether it will be appropriate for the Haryana Real Estate Regulatory Authority (hereinafter referred to as “the HRERA”) to decide the complaints in a piecemeal manner in the absence of enabling power or mandate under the Act, Rules or the Regulations?” Only the necessary facts are noted herein for the sake of clarity and brevity. In a public auction, the appellant was allotted the plot No. 2 in Sector 41, Faridabad, under the Group Housing Scheme. The appellant deposited a sum of ₹20,11,00,000/- which is 25% of the total bid of ₹80,40,29,466/- on 14.03.2013. There were as many as six such allottees of the plots. Clause 6 and 7 of the allotment letter reads as under:-

“6. That Municipal Corporation, Faridabad shall only provide a metalled road as approach to this plot, sewage disposal lines, water supply, storm water drainage, street light and electrification. Till such time the above services are not provided by Municipal Corporation, Faridabad you shall make requisite arrangements at your own level.

7. That you shall get the building plans sanctioned from Commissioner, MCF within six months from the date of offer of possession in accordance with applicable Building Rules/approved Zoning Plan and shall start the construction

within one year and shall complete the building within 5 years. If you fail to complete the building within the specified period, you shall have to pay the extension fee as determined by the Commissioner, Municipal Corporation, Faridabad considering the unavoidable circumstances submitted by you for delay in construction. In case Commissioner is not satisfied with the grounds explained by you then he may initiate action towards cancellation of allotment and forfeiture of amount already deposited by you. The possession of Group Housing Plot can be taken after issue of allotment letter without waiting for offer of possession subject to submission of undertaking that you will not ask for any services from MCF and shall manage the required services at your own level till such time the municipal services are provided in the area by this Corporation”.

4. It was provided in the allotment letter that the Municipal Corporation, Faridabad (hereinafter referred to as “the MCF”), shall complete the development work, the cost of which was included in the price of the auctioned plot. In terms of Clause 6 and 7, on undertaking given by all the six allottees on 16.04.2013 i.e. within a period of four days from the date of allotment, the possession of the plot was delivered to the appellant on 10.05.2013. Complaining about the incomplete development work by the Municipal Corporation, a complaint was filed before the HRERA in the year 2020. On 10.12.2020, the MCF was declared to be Promoter in terms of Section 2(zk) of the RERA Act, 2016. On filing of the written statement by the MCF, the HRERA passed a detailed order, concluding part whereof,

“5. In view of aforesaid analysis of information provided by respective parties, it is observed and ordered as follows:-

- (i) The orders dated 10.12.2020 passed by this Authority are re-iterated that the respondent Municipal Corporation, Faridabad will be treated as a promoter-developer covered within definition of Sub Section 2(zk) of the RERA Act, 2016. Therefore, MCF Faridabad is answerable and liable as a promoter in terms of the provisions of the Act.*

*In the instant case, a colony of six large group housing plots, was floated by the Corporation in 2013. Admittedly, however MCF completed development works of the colony in 2019. These works were supposed to have been completed in 2014, thus corporation completed the works with a delay of nearly 5 years. **Tentative view** of the Authority is that or the delay caused the Corporation has earned a liability to compensate the allottees in terms of the provisions of the Act as interpreted by this Authority in complaint No.113 of 2018 Madhu Sareen Versus BPTP. **These views of the Authority shall be confirmed on the next date after further hearing of both the parties.** The interest which may have become due to be paid to the allottees on account delay caused in completing the development works should be calculated by both the*

parties which will be adjudicated upon by this Authority on the next date.

- ii) Apparently, complainants are still disputing the completion of development. Whether the development works have been executed as per approved plans needs to be verified on the ground. Both the parties shall submit their respective statements in this regard. If an appropriate conclusion is not arrived at on the next date, the Authority will appoint its own Local Commissioner to examine the site and submit its report.*
- iii) From the pleadings of both the parties it is further made out that the case of the respondent corporation is that the complainant has been defaulting in making payment of due instalments, therefore, the development works could not be carried out. The case of the complainant-allottee on other hand is that having already paid 45% of the consideration amount in the year 2014 the corporation should have executed the development works. Since they were not developing the site at all, and their project was facing difficulties, therefore, they stopped payments. Further arguments in this regard will take place on the next date of hearing.”*

5. On 16.03.2021, a detailed order came to be passed by the

RERA deciding the entitlement of the appellant to claim interest on the

delayed development/completion of the development work. The relevant discussion is in para 3, which is extracted as under:-

“(i) An allotment letter dated 12.4.2013 was issued by the Municipal Corporation, Faridabad to the complainant stipulating therein various terms and conditions of allotment of plot. In the allotment letter it has been specifically stipulated in clause (vi) that MCF shall provided all infrastructural facilities. The allottee complainant company was required to make payment of the balance 75% of the amount in six half yearly instalments during the period 12.10.2013 to 12.4.2016. The interest @ 15% was chargeable from the complainant only after completion of infrastructural facilities. A presumption, therefore, was made in the allotment letter that infrastructure facilities will be completed well before end of tenure of paying all the due instalments and when the infrastructure is completed, interest @ 15 % will become chargeable on the remaining instalments.

(ii) It is evident from the undertaking dated 16.4.20`13 that the complainant company barely 3 days after receipt of allotment letter signed an undertaking to the effect that they wish to take over possession of the plot even without provision of infrastructural faculties by the respondent company, and also that complainant company shall manage services at their own level. The Authority observes that the complainant company took over the possession of the plot at their own

discretion fully understanding that the infrastructural facilities have neither been laid nor will be laid in a short period of time. No specific time limit for provision of infrastructural facilities had been stipulated in the letter of allotment. It is common knowledge that creation of infrastructure by the State Government agencies take time, because complex tender formalities etc. have to be gone through. The complainant was fully aware of the system as well as stipulation made in the letter of allotment, but still with full knowledge and aware of the facts and circumstances they decided to take possession of said plot without having any infrastructure in place.

(iii) It is also a fact that Complainant Company defaulted in payment of instalments. Ostensibly defaults have been caused on account of non-provision of the infrastructural facilities. The letter of allotment however is amply clear that due instalments have to be paid regardless of provision of infrastructural facilities. Now, here is a case in which the complainant company has defaulted in making payment of due instalments, and the respondent company had undoubtedly delayed in developing infrastructural facilities, which admittedly were completed in the year 2019. In the meantime, several proceedings have taken place before Ld. Divisional Commissioner and Ld. Secretary, Urban Local Bodies. Re-schedulement of the instalments have also taken place. The complainant company has also been seeking to invoke

arbitration clause which has not found the favour of any court or Authority and now probably they are before Hon'ble High Court.

For the reasons stated above, the prayer of Complainant Company that they should be awarded interest for the period of delay caused in construction of infrastructure from the year 2014 till date cannot be accepted. The complainant had voluntarily taken possession of the plot without development of infrastructure, and they have given an undertaking that they will not insist for the same. For this reason, the complainant company shall be deemed to have waived off their right to seek compensation for delayed completion of infrastructure works. Further, even though, admittedly, Municipal Corporation, Faridabad has much delayed in construction of infrastructure but complainant company has also defaulted in making payment of due instalments. In the circumstances, it does not appear justified that the interest for the delayed period should be awarded to the complainant company.

(iv) The last contention of the complainant company is that the infrastructural facilities are inadequate and of poor standards. Specific assertions in this regard have been made by the complainant company vide their application dated 10.3.2021. The Authority is of the view that while the Municipal Corporation, Faridabad is entitled to recover the due instalments from the complainant company but it is duty

bound to provide all requisite infrastructural facilities of appropriate standard and quality. A large colony is being promoted by the Municipal Corporation. Thousands of people are going to live in the area. Such a colony requires robust infrastructure for the facility of residents. Accordingly, Authority is of the view that if there are deficiencies in infrastructure the same must be rectified. If Infrastructural facilities are substantially deficient, the corporation will not be entitled to levy interest as stipulated in the letter of allotment.

This fact, however, has to be verified whether sufficient infrastructural facilities have been laid or they are deficient significantly. Further arguments will be heard by the Authority on this matter. Both parties shall produce evidence to show whether infrastructure as per approved plans has been laid or not. Depending upon the evidence adduced, authorities will decide whether a local commissioner should be appointed to visit the site for evaluating the adequacy and quality of infrastructure provided by the respondent corporation”.

6. On 14.07.2021, the HRERA proceeded to pass the following order:-

“1. Shri Venket Rao, learned counsel for the complainant has today urged the Authority to reconsider its observation recorded in Para 3(iii) of its order dated 16.03.2021 to the effect that “It does not appear justified that interest for delayed period should be awarded to the complainant

party.”

2. Acceptance of submission so made, in essay, will tantamount to review of the referred order by the same bench which had passed the order. Also the complainant for this purpose is required to file an application and supply its copy to the opposite party for enabling the latter to submit his response to each ground raised for reviewing the order. No application is yet filed for modification of the order in question.

3. Learned counsel prays that he shall be allowed some time to file application detailing out the grounds for modification of the order dated 16.03.2021. Learned counsel also seeks adjournment for addressing arguments about the scope of appointing Local Commissioner for assessing the quality and also the deficiencies, if any, occurring in the infrastructure facilities required to be developed by the respondent.

4. Considering that the observations sought to be modified were recorded by a bench comprising of all the three members of this Authority, the case is being adjourned with the directions that the complainant shall file the necessary application and supply its copy to the respondent at least 15 days prior to the next date of hearing, so that the respondent is able to file his reply as well before the next date of hearing.

5. *Adjourned to 8.09.2021.*”

7. Thereafter, on an application filed for review, the HRERA passed an order dated 10.11.2021, operative part whereof, reads as under:-

“(ii) The said undertaking dated 16.04.2013 was signed barely 2-3 days after issuance of allotment letter by Municipal Corporation Faridabad. In the absence of contrary averments the argument put forth by complainant company that similar undertakings had been got signed from other five allottees of the project is being taken as correct. If all six allottees of the project had given a similar undertaking it can be presumed that respondent corporation had made them sign such an undertaking. It cannot be imagined that Complainant Company (ies) would act against their own interest and agree that respondent corporation may not lay critical infrastructural facilities for indefinite period of time. It is presumed that firstly, such an undertaking could not be given voluntarily as it serves no purpose of allottees, and secondly, it could not give respondent corporation an unqualified right to lay or not to lay critical infrastructure of the colony for indeterminate period of time. Surely such an undertaking has to be considered onerous one-sided and dictated by a dominant party.

(iii) If effect of the undertaking is discounted from the equation of relationship of allottees and Promoter

Corporation, rights and liabilities of both the parties then deserves to be determined in accordance with general law of the land and express provisions of law which in the present case is the RERA Act, 2016.

(iv) The Authority observes that Complainant Company had submitted several applications dated 18.01.2021, 10.03.2021, 19.03.2021, 31.03.2021 and 07.09.2021 before the Authority. Several documents had also been submitted with each of the applications. The Authority agrees that the documents submitted along with applications have to be accounted for and disposed of appropriately.

7. In the light of aforesaid observations and findings, Authority considers it just and fair that a fresh speaking order for adjudicating respective rights and liabilities of both the parties should be passed after duly considering the documents placed on record.”

8. The MCF filed an appeal before the HREAT which has been allowed while setting aside the order dated 10.11.2021.

9. As already noticed, the learned senior counsel representing the appellant has restricted his arguments on a limited issue. He contends that once the HREAT has come to a conclusion that the matter should be decided in a comprehensive composite manner, then the order passed on 16.03.2021, should be treated as an interim order or in other words, it should not bind the HRERA while deciding the complaint, finally.

10. The learned senior counsel representing the appellant has

relied upon the judgments passed in *Prithvi Raj Jhingta & Another Versus Gopal Singh & Another, 2007(3) R.C.R. (Civil) 407* and *Sathyanath and Another v. Saroj Mani Civil Appeal No. 3680 of 2022, decided on 06.05.2022*. Per contra, the learned counsel representing the MCF has contended that once an issue has been decided and in the absence of powers, the HRERA has no jurisdiction to review its order. He submits that the order dated 16.03.2021 has become final. He, hence, submits that it will not be appropriate to permit the HRERA to re-open the issue which stood concluded by the final order dated 16.03.2021.

11. It would be noted here that this Court is proceeding to decide the limited issue as already mentioned. Before doing that, it would be appropriate to have a brief look of the provisions of the Act, Rules and the Regulations framed thereunder the RERA Act, 2016. Section 20 of Chapter V of the RERA Act, 2016 provides for the establishment and incorporation of the Real Estate Regulatory Authority. Section 36 and 37 of the RERA Act, 2016, which are relevant in the facts of the present case, enable the Authority to issue the interim orders and directions. Section 38 of the RERA Act, 2016, enables the Authority to impose penalty, interest on the promoters, the allottees and the real estate agents. Section 39 of the RERA Act, 2016, enables the Authority to rectify any mistake apparent from the record in order to amend any order passed by it. Section 36, 37, 38 and 39 of the RERA Act, 2016 are extracted as under:-

“36. Power to issue interim orders.—Where during an inquiry, the Authority is satisfied that an act in contravention of this Act, or the rules and regulations made thereunder, has been

committed and continues to be committed or that such act is about to be committed, the Authority may, by order, restrain any promoter, allottee or real estate agent from carrying on such act until the conclusion of such inquiry or until further orders, without giving notice to such party, where the Authority deems it necessary.

37. Powers of Authority to issue directions.—*The Authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary and such directions shall be binding on all concerned.*

38. Powers of Authority.—*(1) The Authority shall have powers to impose penalty or interest, in regard to any contravention of obligations cast upon the promoters, the allottees and the real estate agents, under this Act or the rules and the regulations made thereunder.*

(2) The Authority shall be guided by the principles of natural justice and, subject to the other provisions of this Act and the rules made thereunder, the Authority shall have powers to regulate its own procedure.

(3) Where an issue is raised relating to agreement, action, omission, practice or procedure that—

(a) has an appreciable prevention, restriction or distortion of competition in connection with the development of a real estate project; or

(b) has effect of market power of monopoly situation being abused for affecting interest of allottees adversely,

then the Authority, may, suo motu, make reference in respect of such issue to the Competition Commission of India.

39. Rectification of orders.—*The Authority may, at any time within a period of two years from the date of the order made under this Act, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:*

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act:

Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act”.

12. On a careful reading of Section 36 of the RERA Act, 2016, it is evident that the statute has provided with the enabling powers to the RERA to pass orders restraining any promoter, allottee or real estate agent for carrying on such an act until the final conclusion of such inquiry or until further orders. In other words, Section 36 of the RERA Act, 2016, enables the Authority to pass an injunction order, if the circumstances justify such action.

Similarly, Section 37 of the RERA Act, 2016, enables the Authority to issue such directions from time to time to the promoters or allottees or real estate agents for the purpose of discharging its functions under the provisions of the Act or the Rules or the Regulations framed thereunder. Section 39 of the RERA Act, 2016, confers enabling power on the Authority to rectify any mistake apparent from the record, which should not result in amendment of substantive part of its orders passed under the provisions of the RERA Act, 2016. Thus, it is evident that there is no specific provision enabling the Authority to decide the various points involved in the matter in a combined manner or from time to time. The Supreme Court, in *A. Shanmugam v. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalani Sangam and Others (2012) 6 SCC 430* has observed as under:-

“39. Our courts are usually short of time because of huge pendency of cases and at times the courts arrive at an erroneous conclusion because of false pleas, claims, defences and irrelevant facts. A litigant could deviate from the facts which are liable for all the conclusions. In the journey of discovering the truth, at times, this Court, on later stage, but once discovered, it is the duty of the Court to take appropriate remedial and preventive steps so that no one should derive benefits or advantages by abusing the process of law. The court must effectively discourage fraudulent and dishonest litigants”.

13. In fact, the aforesaid observation made by the Supreme Court is the correct reflection of the situation of the Courts and Authorities today.

Hence, it would be in the interest of speedy disposal of the cases that the matters are decided by a composite comprehensive order after appreciating the entire record.

14. The MCF has filed the written arguments contending that the HREAT has held that the order dated 16.03.2021 is neither interim nor interlocutory order. This may be correct to a certain extent. However, once the HREAT as well as this Court has formed an opinion that it is in the interest of speedy dispensation of justice that the HRERA should pass a composite and comprehensive order deciding all the issues together. In such circumstances, a pragmatic view of the matter has to be taken. It may not be to the liking of one of the parties. However, this view is going to affect the decisions in future. Hence, in the considered view of this Court, it would be appropriate to permit the HREAT to pass composite and comprehensive order deciding all the matters once again.

15. The next argument of the learned counsel is again off-shoot of the first one. It is submitted that the aforesaid issue was finally decided and the matter was kept pending in order to satisfy as to whether the infrastructure work, which now the MCF claims to have provided, is adequate and sufficient or not. In view of the observations made above, this issue does not need any further deliberation.

16. The next argument of the learned counsel representing the MCF is with regard to the remedy of appeal available to the appellant under Section 43(5) of the RERA Act, 2016. Undoubtedly, there is a remedy of appeal against any direction or decision or order made by the Authority.

However, that could not be sufficient to hold that the order dated 16.03.2021

has attained finality particularly when it has been found that the HRERA

erred in passing orders in a piecemeal manner.

17. The next argument of the learned counsel representing the appellant is with regard to the entitlement of the appellant for interest due to the delay caused in carrying out the development work/providing infrastructural facility. It has been highlighted that the appellant did not pay the installments as per the allotment letter. Consequently, the appellant is liable to pay interest from the day the infrastructural facilities/services have been provided by the MCF. In the considered view of this Court, such matters can be decided by the HRERA only after examining the record, therefore, it will not be appropriate to make any observation in this regard. Undoubtedly, the HRERA, after reserving the judgment, passed the order on 16.03.2021, but still kept the matter to see that all the infrastructural facilities are provided. Once the matter is pending before the HRERA for final adjudication, in the facts and circumstances of the present case, this Court is of the view that let the HRERA decide the matter by a composite and comprehensive order deciding all the issues together uninfluenced by any interim or interlocutory orders passed from time to time. The argument No.5 is again the reiteration of the contention which has already been noticed. Hence, it needs no further deliberation.

18. The attention of the Court has not been drawn to any provision in the RERA Act, 2016, which enables the HRERA to decide the complaint in a piecemeal manner at the various stages. It is also equally correct that the attention of the Court has also not been drawn to any provision prohibiting HRERA from deciding on the various points for determination in a piecemeal manner. The question is as to what would be the best course available with

the HRERA to decide the matter.

19. This Court has also examined the judgments relied upon by the learned counsel representing the appellant. In *Prithvi Raj Jhingta's case (supra)*, a Full Bench of the Himachal Pradesh High Court interpreted the provisions of the Order XIV Rule 2 CPC in the context of deciding the preliminary issues of law and mixed questions of both law and facts. The Court held that in view of the amendment in the Code of Civil Procedure, brought in the year 1976, the Court will, subject to the exceptions under sub-Rule 2, proceed to decide all the issues both of the law and facts, together. Exception under sub-Rule 2 of Rule 2 to Order XIV CPC provides that the issue of jurisdiction of the Court and a bar to the suit created by any law for the time being enforced may be decided by the Court as a preliminary issue.

20. Similarly, in *Sathyanath's case (supra)*, the Supreme Court has interpreted the provisions of Order XIV Rule 2 CPC post the 1976 Amendment again. The Supreme Court, while relying upon the judgment in *Prithvi Raj Jhingta's case (supra)*, has held that the Court should proceed to record findings on all the issues except as permitted under sub-Rule 2 of Rule 2 of Order XIV CPC.

21. In the considered opinion of this Court, both the aforesaid judgments are in the context of procedural law as provided under the Code of Civil Procedure, 1908 therefore, the same are not applicable to the facts in issue of the present case.

22. The RERA Act, 2016, has been established to regulate and promote the real estate sector and to protect the interest of the consumers, in

an expeditious manner. Keeping that object in mind, this Court is of the considered view that the HREAT has correctly concluded that in the interest of expeditious disposal of the matters, it would not be appropriate to pass multiple orders to substantially decide the rights of the parties instead of passing a composite order to dispose of the complaint deciding all the issues together. Apart from the reasons recorded by the HRERA, this Court proceeds to record its own reasons, which are as under:-

- i) There is no specific provision enabling the HRERA to pass a final orders at various stages. Also, there is no provision for prohibiting such course to be adopted.
- ii) If the multiple orders are passed to substantially decide the rights of the parties, it will lead to additional cost and delay, particularly when all the orders are appealable before the HREAT.
- iii) Section 43(5) of the RERA Act, 2016, provides for pre-deposit of the amount if the promoter files an appeal against the order of imposing penalty. It is provided in proviso to Sub-Section 5 of Section 43 of the RERA Act, 2016 that the promoter before filing the appeal shall deposit at least 30% of the penalty or such higher percentage as per the orders of the Appellate Tribunal or the total amount to be paid to the allottee including interest and compensation imposed on him before the said

appeal is heard. If the multiple orders are passed which are final in nature, without deciding the question of penalty and total amount to be paid to the allottee including interest and compensation, it will be easy to defeat the object behind the proviso of sub-Section 5 of Section 43 of the RERA Act, 2016.

- iv) There is a danger, chance of unfairness in deciding the matter in the absence of the complete material, particularly, when the matters are to be decided in a piecemeal manner.
- v) Sometimes decision on a particular point or issue at the initial stage may pose difficulty before the Authority about the connected issue which remains to be decided, particularly when the decision on such issue is dependent on the issue which already stood decided by the Authority.

23. It would be noted here that this Court has made a comparison between the RERA Act, 2016 and the Arbitration and Conciliation Act, 1996 (hereinafter referred to “the 1996 Act”). In Section 31(6) of the 1996 Act, the statute itself makes a provision enabling the Arbitral Tribunal to pass an interim arbitral award on any matter with respect of which it may make a final arbitral award. There is no parallel provision in the RERA Act, 2016.

24. In such circumstances, the appeal is disposed of with the following observations:-

- I) In the future, before passing any interlocutory order, the HRERA would examine as to whether there is any real advantage in delivering final orders on particular issue(s) while keeping the remaining issues pending.
- II) There is inherent contradiction in the order passed by the HREAT which needs a minor clarification. In the absence of challenge by the MCF, this Court is not going into the issue as to whether in the facts of the present case, it was necessary for the HRERA to decide the matter in a piecemeal manner. However, for the sake of repetition, it is observed that the HRERA is advised not to venture into passing the multiple orders, unless necessitated by the circumstances, particularly when there is no specific enabling provision under the RERA Act, 2016. It is also observed that the HRERA, while deciding the complaint by a composite comprehensive order, shall not be bound by the orders passed by the HRERA on 16.03.2021 and proceed to decide the matter after taking into consideration the pleadings and the evidence brought on record while taking holistic view of the matter.

25. The complaint was filed in the year 2020. Hence, the HRERA is directed to proceed to decide the matter, finally, in an expeditious manner.

26. With the observations made above, the present appeal is disposed of.

27. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

June 08, 2022
“DK”

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No