

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

**202**

**CM-8509 & 8504-CII-2021 in/and  
RA-CR-55-2021 in ARB-46-2020  
Decided on : 07.01.2022**

Suncity Projects Pvt. Ltd.

... Applicant/Petitioner

Versus

Lalit Chopra and another

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA**

Present: Mr.D.K.Singal, Advocate, for the applicant-respondents.

Mr.Ashim Aggarwal, Advocate, for the non-applicant/appellant.

(The proceedings are being conducted through video conferencing, as per instructions.)

**G.S. Sandhawalia, J. (Oral)**

Application has been filed for reviewing the order dated 02.09.2021.

Mr.Singal submits that vide the said order proceedings have been referred to the nominated Arbitrator by allowing the application filed under Section 11(6) of the Arbitration & Conciliation Act, 1996. It is the grouse of the applicant-respondents that he had not put in appearance on account of the fact that they were under the impression that the matter had been adjourned to 03.12.2021 and the same was not liable to be taken up in September, 2021 and it was on that account it had not put in appearance.

Mr.Aggarwal, on the other hand, submitted that the applicant-allottees are playing the game of hide and seek in as much as even before the State Consumer Redressal Commission whereby the respondents had filed a complaint but the applicant-respondents had not put in appearance. He has referred to the order dated 06.04.2021 wherein the absence of the complainant has been noticed by the Commission.

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A perusal of the paperbook would go on to show that notice was issued to the applicant for 18.03.2020 on 19.02.2020 in the application for appointment of Arbitrator. Office report goes on to show that they were duly served for 18.03.2020. The case was then adjourned to 04.05.2020 but no power of attorney or memo of appearance was filed inspite of the respondent-applicants being duly served. Thereafter, an application was filed on 08.07.2021 after a period of one year for preponement by the builder bearing CM-5480-CII-2021. The applicants in their application have stated that they had also received the advance notice of the said application. The said application was disposed of with direction on 15.07.2021 that the main case would be listed for hearing on the date already fixed i.e. 02.09.2021. Resultantly, the order was passed appointing the Arbitrator while noting that the respondents had chosen not to put in appearance despite service. An averment has now been made that for 02.09.2021 also cases had been adjourned to 03.12.2021 and therefore, the applicants had not put in appearance.

It is surprising to notice that the application for review/recall was filed with promptitude on 13.09.2021, 10 days after the order was passed inspite of the fact that the applicants were not aware of the fact that proceedings were to be taken up on 02.09.2021. A lame explanation has now been given that they came to know on 04.09.2021 by the officials of the builder. It is thus apparent that the applicants are at fault themselves having not filed the reply to the petition or having placed any authority to appear so that it could be brought to the notice of this Court that they were duly represented by counsel and had to be heard when the said order was passed.

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In such circumstances, this Court is of the opinion that no case is made out for review of the said order especially at the hands of a party who had been given sufficient opportunity to file its appearance and reply for a period of almost 1 ½ years before the order was passed. It is settled position that the litigant is to be diligent and for its own negligence cannot shift the blame upon the Court. Even otherwise, since only an Arbitrator has been appointed vide the order, recall of which is sought, the same is as per the terms of the agreement inter se the parties. The order is self speaking itself as to the right of the parties and no prejudice has been caused to the applicants who are free to raise their claim before the Arbitrator appointed by this Court since nothing has been observed on merits.

Accordingly, the present review application along with misc. applications are dismissed. Accordingly, the interim order dated 17.09.2021 is vacated.

Parties shall put in appearance before the concerned Arbitrator on 28.02.2022 at 10 AM, appointed vide order dated 02.09.2021.

**January 7, 2022**  
*Sailesh*

**(G.S. SANDHAWALIA)**  
**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No