

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

CR-6112-2018 (O&M)

Date of decision: 19.12.2023

M/s TDI Infrastructure Ltd.

...Petitioner

Versus

Santosh Jain

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Munish Gupta, Advocate for the petitioner

Mr. Mrigank Sharma, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

1. In this revision petition, the petitioner (the Real Estate Developer) assails the correctness of the order passed by the Executing Court on 14.08.2018 directing its Directors to enter appearance, failing which attachment of TDI City, Kundali and any other related property shall be initiated.

2. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

3. Before the Lok Adalat, the parties resolved their dispute, which resulted in passing of the decree on 17.10.2013. The correctness of the aforesaid order was challenged by the petitioner in the High Court by filing a writ petition. The writ petition was withdrawn with liberty to file an application before the Permanent Lok Adalat for modification of the award. In substance, the

petitioner offered an alternative plot in lieu of the previous plot allotted to the respondent. The Permanent Lok Adalat vide order dated 15.12.2016, passed the following order:-

“10. Though there was no plea on the part of TDI before passing the award dated 17.10.2013 that delivery of possession of plot No.H-510 allotted to Smt. Santosh Jain could not be done as in the revised plan the land of this plot was reserved for School Building. Anyhow, if plot No.H-510 was not available with TDI for delivery of possession to Smt. Santosh Jain then she could be said to be entitled to alternative plot No.F-262 which has been offered by TDI and accepted by her then she would be entitled to take this plot on the same terms and conditions as have been mentioned in the award dated 17.10.2013. The TDI now cannot demand the further amount towards EDC from her because as per award and also as observed above, she was liable to pay any enhanced EDC within two years of the allotment of the Plot No.H-510 only.

11. No other point was raised by either of the sides.

12. Hence, in view of the above discussion, the order is made accordingly and the application is hereby disposed of. File be consigned to the record room after due compliance.”

4. On the one hand, the petitioner claims that the respondent has not paid the price of the plot no.510, TDI City, Kundali, whereas on the other hand, it is the stand of the respondent that the cheques drawn in favour of the petitioner were sent to the petitioner by a registered post on 17.10.2013.

5. It is evident that even after having settled the matter before the Permanent Lok Adalat, the parties are still litigating in the courts.

6. During the course of the arguments, the learned counsel representing the petitioner submits that he has no objection to hand over possession of the alternative plot no.F-262 to the respondent tomorrow i.e 20.12.2023 at 11:00 am.

7. Learned counsel representing the respondent readily accepted the aforesaid offer.

8. Learned counsel representing the petitioner submits that the cheques allegedly sent on 17.10.2013, were neither received nor encashed by the petitioner. On the other hand, the learned counsel representing the respondent submits that the aforesaid cheques were sent by the registered post, which were duly received.

9. Keeping in view the aforesaid facts, the Executing Court is requested to decide the aforesaid issue after calling upon the parties to file their evidence by way of affidavits alongwith the statements of their accounts. If the court comes to a conclusion after perusing the evidence that the aforesaid cheques were sent by the respondent and received by the petitioner, the court shall pass appropriate orders. However, if the cheques were never sent by the respondent to the petitioner, the court shall then proceed with the matter accordingly.

10. With these observations, the revision petition is disposed of.
11. All the pending miscellaneous applications, if any, are also disposed of.

19.12.2023
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(ANIL KSHETARPAL)
JUDGE

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