

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

201

**CWP-14658-2012
Date of Decision: 24.08.2023**

HANS RAJ

... Petitioner

VERSUS

PERMANENT LOK ADALAT AND ORS.

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Amit Jain, Advocate
for the petitioner.

Mr. Alok Mittal, Advocate and
Ms. Roja Agnihotri, Advocate
(Legal Aid Counsel) for respondents No.2 and 3.

VINOD S. BHARDWAJ, J. (ORAL)

The challenge in the present petition is to the impugned order dated 31.01.2012 (Annexure P-6) passed by the Permanent Lok Adalat (Public Utility Services), Gurugram whereby the application under Section 22-C of the Legal Services Authorities Act, 1987 moved by the petitioner was dismissed.

Learned counsel for the petitioner contends that the respondent had advertized a project that was likely to come at Dharuhera, District Rewari and invited applications from interested persons for provisional registration of flats. The petitioner thus submitted an application and also deposited an amount of Rs.4,95,000/- vide cheque No.605398 dated 08.11.2006 drawn on Oriental Bank of Commerce, Pehladpur. The abovesaid amount was credited to the account of the respondent No.1 and a receipt dated 08.11.2006 (wrongly mentioned as mentioned as 08.11.2008) mentioning the booking order for flat at

Arawali Heights acknowledging the application form as well as the money was duly issued by the respondents. The offer of allotment of flat in the proposed scheme was to be made to the petitioner within a period of 09 months of the registration/submission of application failing which the petitioner was entitled to simple interest @ 10% per annum. In case the company was not in a position to make offer of allotment of flat within a period of 12 month from the date of the application/registration, the applicant-petitioner was entitled to refund of the advance made by him for provisional registration alongwith simple interest.

The petitioner thereafter submitted a letter dated 17.01.2008 requesting the respondents to inform the petitioner about existing status of the project, but no reply was received. After waiting for 4½ years and on lack of response from the respondents, a legal notice dated 04.10.2011 was served by the petitioner through his counsel seeking refund of the amount of Rs.4,95,000/- alongwith simple interest @ 10% per annum from 08.11.2006 till its actual refund. Finding no response, the petitioner moved an application under Section 22-C of the Legal Services Authorities Act, 1987 before the Permanent Lok Adalat (Public Utility Services), Gurugram.

Upon notice, the respondents entered appearance and raised various objections with respect to the maintainability of the application including that the petitioner is seeking recovery of money from the Permanent Lok Adalat (Public Utility Services), Gurugram and that the Lok Adalat had no power to entertain the said dispute.

Efforts for conciliation having been failed, adjudication under Section 22-C(8) of the Legal Services Authorities Act, 1987 was initiated by the Permanent Lok Adalat (Public Utility Services), Gurugram.

Upon consideration of the respective contentions raised by the parties, the Permanent Lok Adalat (Public Utility Services), Gurugram noticed that refund could be ordered only upon occurrence of the event as stipulated in terms and conditions No.9 of the document marked as C-1 allotment letter and that the same having not been established, the Application was dismissed with liberty to the applicant-petitioner to move to Civil Court or appropriate Forum, if he so desires. Aggrieved thereof, the present writ petition has been filed.

A preliminary objection has been raised by the counsel for the respondents No.2 and 3 that the dispute in question at best would relate to housing and real estate services and that as on the date when the application was submitted by the petitioner under Section 22-C of the Legal Services Authorities Act, 1987 on 17.11.2011, the housing and real estate service was not a public utility service under Section 22-A (b) of the of the Legal Services Authorities Act, 1987. The notification bearing No.SO495(E) bringing the real estate and housing services within the ambit of public utility service was issued by the Ministry of Law and Justice on 16.02.2016, which was published in the Gazette of India on 16.02.2016. It is thus submitted that the Permanent Lok Adalat (Public Utility Services), Gurugram had no jurisdiction to entertain the application and/or to pass any Award.

Counsel for the petitioner fairly submits that he cannot dispute the issuance of notification but the said issue was not raised before the Permanent Lok Adalat (Public Utility Services), Gurugram at the time when the proceedings had been initiated. He, however, further fairly concedes that there would be no bar in raising such an objection, which is purely legal, even at the stage of the present proceedings. He, however, prays that the petitioner may be granted liberty to take recourse to the alternate remedies available to him in

accordance with law and the period during which the proceedings remained pending before the Permanent Lok Adalat (Public Utility Services), Gurugram and/or before this Court may be taken into consideration while computing the limitation. The prayer seems to be reasonable.

The present petition is accordingly disposed of as not pressed at this stage. Liberty is, however, granted to the petitioner to take recourse to his alternative remedies in accordance with law.

Needless to mention that in the event of the petitioner being advised to pursue such remedies, the period during which the proceedings remained pending before the Permanent Lok Adalat (Public Utility Services), Gurugram and/or before this Court shall be noticed by the Court for computing limitation and due benefit be extended to the petitioner for the same.

AUGUST 24, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

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