

**THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

101

**CWP-16379-2019 (O&M).
Date of Decision: 25.01.2023.**

M/s Crown Realtech Pvt. Ltd.

...Petitioner

Versus

**Permanent Lok Adalat (Public Utility Services), Faridabad and
another**

...Respondents

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

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

VINOD S. BHARDWAJ. J (ORAL)

The present petition raises a challenge to the Award dated 06.03.2019 (Annexure P-1) passed by the Permanent Lok Adalat (Public Utility Services), Faridabad.

Briefly summarized, the facts of the instant case are that respondent No.2-applicant had booked an office space in the project 'Abacus Techno Park', constructed by the petitioner herein (respondent before the PLA) on Mathura Road, Faridabad. The petitioner is stated to have assured respondent No.2-applicant for allotment of Unit No.306 on the 3rd Floor, Facing North West on the main Mathura Road. However, vide letter dated 07.02.2011, the petitioner arbitrarily allotted a different

Unit to respondent No.2-applicant without any prior intimation or his consent. The said offer was accepted at the relevant point of time by respondent No.2-applicant under the compulsive circumstances and thereafter applied to the petitioner for allotment of a different Unit on the same floor. Accordingly, Unit No.806 was allotted to the respondent No.2-applicant. Payments as per agreement had been duly made by respondent No.2-applicant. Vide letter dated 04.11.2011, the petitioner-Developer admitted receipt of 40% of the installments and only 10% of the installments were due. The same was also released uptill 14.03.2012. The builder buyer agreement was to be executed between the parties upon receipt of 50% of the total payment, however, despite having received the said amount, the builder buyer agreement was not executed by the petitioner herein. Requests by applicant to do the needful did not yield desired result.

The project in question was not also completed as per the agreed time. The petitioner was obligated to pay compensation as undertaken in the communication dated 25.02.2013 and 20.05.2013. Since the petitioner neither paid the compensation/penalty nor offered possession of the Unit, the application under Section 22 C of the Legal Services Authorities Act, 1987 was preferred by respondent No.2-applicant before the Permanent Lok Adalat (Public Utility Services), Faridabad.

The petitioner herein filed its response before the Permanent Lok Adalat (Public Utility Services)Faridabad and submitted that a Unit in Tower No. B-1 had been allotted to respondent No.2-applicant and that it was wrongly alleged by respondent No.2-applicant that Unit No.306 on

the 3rd floor had been allotted to him. There had been no change of the Unit and that Unit No. 811 on the 8th Floor was allotted due to change of the floor plan on account of technical reasons. It was also averred that the petitioner had called upon respondent No.2-applicant to execute the builder buyer agreement, however, respondent No.2-applicant never approached the petitioner for execution of the said agreement and that the same can be done even now and at any point of time. It was also averred in the said response that the promised return became payable in an event respondent No.2-applicant paid 90% of the total sale consideration. Since respondent No.2-applicant had failed to discharge his obligation hence, there was no occasion for the builder to pay any compensation. It was averred that the building is more than 90% complete and the petitioner is ready to offer the possession upon receiving the outstanding amount of Rs.24 lacs. It was also alleged that respondent No.2-applicant was a chronic defaulter in making the timely payments and that such delay in payment had actually resulted in delay in the execution of the project itself.

Efforts to amicably resolve the issue were undertaken and the same having failed to evince any final settlement, further proceedings were initiated in terms of Section 22 C (8) of the Legal Services Authorities Act, 1987.

Upon consideration of the pleadings and the evidence adduced, the Permanent Lok Adalat (Public Utility Services), Faridabad, allowed the application and directed the petitioner herein to execute the builder buyer agreement without any delay and to deliver the possession of the

property in a time bound manner. The petitioner was also directed to pay interest amount in the shape of penalty to respondent No.2-applicant @ Rs.50,000/- per month w.e.f. 01.03.2013 till 31.03.2014 and @ Rs.70,000/- per month w.e.f. 01.04.2014 till the actual date of delivery of possession of the booked unit, complete in all respects. Additionally, the petitioner was also directed to pay a compensation towards mental tension, agony, harassment and monetary loss and litigation expenses as well.

Aggrieved thereof, the present writ petition has been preferred by the petitioner.

Learned counsel appearing on behalf of the petitioner vehemently argued that Permanent Lok Adalat (Public Utility Services), Faridabad, failed to consider the pleadings and the evidence brought on record. It was submitted that respondent No.2-applicant was himself in default of the payment of the installments as per the time schedule agreed. It also failed to take note of the fact that the change of the allotted Unit was not on account of any malicious act on the part of the petitioner, but, was on account of the change of the floor plan and technical reasons. The Unit initially allotted to respondent No.2-applicant was not sold to any other person. It is also argued that the petitioner has always been ready and willing to execute the builder buyer agreement and that a communication in this regard was also sent vide letter dated 14.02.2012, however, respondent No.2-applicant failed to execute the same. The liability of the lapse committed by respondent No.2-applicant cannot be fastened against the petitioner. It is argued that the project in question was already

complete and the petitioner was always ready and willing to offer possession and there was no occasion for issuance of the directions as contained in the Award.

I have heard the learned counsel for the petitioner at length and have gone through the documents available on record.

In the contentions of the petitioner noticed above by the Permanent Lok Adalat (Public Utility Services), Faridabad, it was observed that respondent No.2-applicant had already deposited an amount of Rs.37,65,000/- against the agreed sale consideration of Rs.61,27,597/- approximately which was more than 50% of the total sale price. The obligation therefore lay upon the petitioner to enter into the builder buyer agreement and he cannot pass on the responsibility against respondent No.2-applicant. The letter dated 14.02.2012 (EX.A-6) relied upon by the petitioner was only an intimation to the effect that construction is progressing at full swing and the work towards achieving the target date was 31.3.2013 for completion of the project. The said communication was not a call for entering into a builder buyer agreement and was only a letter intimating progress of the project and communicating that the petitioner shall approach respondent No.2-applicant with a request to formalize the builder buyer agreement. The same was thus not an offer to execute the builder buyer agreement. It was also noticed by the Permanent Lok Adalat (Public Utility Services), Faridabad, that vide the above said communication, the target date for completion of the project was 31.03.2013 for offer of possession. The petitioner had itself offered the payment of Rs.50,000/- per month for the

delayed period from 01.04.2013 in case the possession of the project is delayed beyond 31.03.2013. Thereafter, vide its letter dated 20.05.2013, the petitioner further confirmed that the project would be ready by 31.03.2014 and undertook to pay monthly interest of Rs.70,000/- per month for the delayed payment from 01.04.2014 till the date of actual possession as penalty. It was also noticed that the communications offered by the petitioner itself showed that the project in question was not complete and the possession had not been offered. The liability to pay interest on the amount already received having been acknowledged and undertaken by the petitioner itself, it cannot thereafter evade payment of the aforesaid dues. The Award has been passed in terms of the undertaking/offer made by the petitioner itself. There is no failure on the part of the Permanent Lok Adalat (Public Utility Services), Faridabad, in appreciating the evidence adduced on record and the same has been passed in accordance with the correspondence and communication offered by the petitioner itself.

I find that there is no illegality, perversity, impropriety or mis-appreciation of evidence adduced on record by the Permanent Lok Adalat (Public Utility Services), Faridabad.

Accordingly, the present petition is dismissed in *limine* and the Award dated 06.03.2019 (Annexure P-1) passed by the Permanent Lok Adalat (Public Utility Services), Faridabad in the light of principles of equity, fairness and natural justice, is affirmed.

January 25, 2023
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(VINOD S. BHARDWAJ)
JUDGE

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