

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

136

CWP-12955-2023
Date of Decision: 02.06.2023

MAHIRA BUILDWELL PVT. LTD.

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

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

Present: Mr. Ashok Aggarwal, Sr. Advocate with
Mr. Mukul Aggarwal, Advocate for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed for seeking issuance of direction to the respondents to provide police help/police assistance to the petitioner, more particularly in terms of the order dated 06.10.2022 (Annexure P-7) so that the respondents No.5 to 8 and their accomplices can be restrained from obstructing the construction activities of the petitioner as the project of the petitioner is time bound and has to be delivered in time.

The crux of the matter is that the private respondents No.5 to 8 approached the petitioner and represented themselves to be the owners in possession of land measuring 83 kanals – 11 marlas (10.443 acres) at village Dhanwapur, Sub Tehsil Kadipur, Gurugram and extended a proposal to the petitioner to develop an affordable housing project on the said land. Consequently, a Collaboration Agreement was executed between the petitioner and certain land owners including the private respondents No.5 to 8. It was mutually agreed in the said agreement that the possession of the land would be handed over to the

petitioner to carry out the project in question and the said possession would not be disturbed in any manner and the petitioner shall not be dispossessed till the project is accomplished. Certain other conditions necessary for carrying out the project were agreed between the parties. On 28.12.2020, a registered General Power of Attorney was executed in favour of the petitioner by the land owners including the respondents No.5 to 8 for the purpose of the aforesaid project. Further, as per Clause 2B, the share of land owners and the petitioner was 35% and 65% respectively. Moreover, the said share was to be paid only after the completion of the project. Further, as per Clause 14(ix), all amounts received from prospective purchasers were to be deposited in an Escrow account, which has been duly opened by the petitioner. Also an amount of Rs.33.30 crores (approximately) has already been paid by the petitioner to the land owners including respondents No.5 to 8. Apart therefrom, the petitioner settled the dispute of the land owners with the previous developers also, with whom they have entered into Collaboration Agreement by making payment of Rs.7.5 crores to the said developers. Thereafter the petitioner applied for grant of licence to the Department of Town and Country Planning, Haryana for setting up of an affordable group housing colony over the land in question. Consequently, Licence No.66 of 2021 was granted by the competent Authority to the petitioner. Thereafter vide Registration No.72 of 2021 dated 25.10.2021 the petitioner got the aforesaid project registered with the Haryana Real Estate Regulatory Authority, Gurugram under the relevant provisions of the Real Estate (Regulation and Development) Act, 2016. On 03.12.2021, the said project was launched by the petitioner and numerous third party rights, about 1483 in number, were created in the project by way of allotting the flats to the prospective buyers. However, as of now, certain land owners including the respondents No.5 to 8 have started creating

hindrances and obstructions in the project of the petitioner. Hence, the petitioner made a complaint and sought police assistance at the site for ensuring the progress of the project and to avoid any mishap at the site. Thereafter, vide order dated 06.10.2022 (Annexure P-7), HRERA, Gurugram requested the Deputy Commissioner-cum-District Magistrate, Gurugram to provide necessary police assistance at the site for the help of the petitioner. However, despite the aforesaid order dated 06.10.2022 (Annexure P-7) by HRERA, Gurugram no police assistance was provided by the Authorities including present respondents No.2 and 3. The petitioner submitted various complaints/representations (Annexures P-8, P-9 and P-10) before the Higher Police Authorities including Deputy Commissioner of Police, West, Gurugram but no action has been taken thereupon. Therefore, the petitioner also represented to the Deputy Commissioner, Gurugram, by way of representations dated 08.10.2022, 12.03.2023 and 01.05.2023 (Annexures P-11 to P-13 respectively), however, no action has been taken thereupon.

Notice of motion.

Mr. Vivek Saini, Addl. A.G., Haryana accepts notice on behalf of respondents No.1 to 4 and prays for some time to complete instructions and file response, if necessary.

Learned counsel for the petitioner, however, submits that at this juncture, the petitioner would be satisfied, if the respondent No.3 is directed to consider and decide the complaint/representation dated 02.11.2022 (Annexure P-10) submitted by the petitioner by passing a speaking and reasoned order in a time bound manner.

Learned State counsel has no objection to the said prayer.

Accordingly, in view of the above, with the consent of the parties and without commenting anything on the merits of the case, the present petition is disposed of with a direction to the respondent No.3 – Commissioner of Police, Gurugram to consider and decide the representation/complaint dated 02.11.2022 (Annexure P-10) in a time bound manner and preferably within a period of three weeks from the date of receipt of certified copy of this order, after affording an effective opportunity of hearing to the concerned parties.

Petition is disposed of accordingly.

02.06.2023

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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No