

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

107

CWP-13737-2023 (O &M)
Date of decision: 14.07.2023

M/S ATS INFRABUILD PVT LTD

.....Petitioner

VERSUS

PERMANENT LOK ADALAT AND ORS

.....Respondents

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

Present:- Mr. Charanjit Singh Bakhshi, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

CM-10747-CWP-2023

The instant application has been filed under Section 151 of the Code of Civil Procedure, 1908 for placing on record Annexure P-13 and P-14.

Application is allowed as prayed for.

CWP-13737-2023

The present petition has been filed on behalf of ATS Infrabuild Pvt. Ltd. raising a challenge to the order dated 25.05.2023 (Annexure P-7) as also the Warrant of Attachment dated 07.06.2023 (Annexure P-8) passed by respondent No.1 in execution of the award dated 16.01.2023.

2. Learned counsel appearing on behalf of the petitioner contends that respondent No.2-V.S.D.A. Builders had filed an application No. 535 dated 03.10.2016 against respondent No.4-M/s Shiwalik Site Planners Pvt. Ltd. and others under Section 22 (C) of the

Legal Service Authorities Act, 1987. The petitioner ATS Infrabuild Pvt. Ltd. was not a party to the abovesaid proceedings instituted before the Permanent Lok Adalat (Public Utility Services) S.A.S. Nagar, Mohali. The grievance espoused in the above said application, by the V.S.D.A. Builders was to the effect that respondent No.1 therein i.e. Shiwalik Site Planners Pvt. Ltd. was to provide the basic amenities at the site as per the Memorandum of Understanding signed between them and also get the completion certificate from the competent authority when it failed. A compensation of Rs. 10 lacs was awarded to V.S.D.A Builders for its failure to sell the remaining 16 flats due to non-providing of basic amenities by the respondent. A further litigation cost of Rs. 15,000/- was also awarded to the petitioner-V.S.D.A against respondent No.1-Shiwalik Site Planners Pvt. Ltd.

3. An execution application No. 16 of 2023 was thereafter filed by V.S.D. A Builders against Shiwalik Site Planners Pvt. Ltd.

4. He submits that the petitioner-M/s ATS Infrabuild Pvt. Ltd. had entered into a development agreement with one M/s. Shiwalik Greens Maintenance Pvt. Ltd. and Shiwalik Estates as per which the development rights over the project were vested with the petitioner on the terms and conditions mentioned thereunder. It is pointed out that Shiwalik Site Planners Pvt. Ltd. having its registered office at SCO 510, Sector-70, Mohali is not the same entity as M/s Shiwalik Greens Maintenance Pvt. Ltd. and/or M/s Shiwalik Estate who are the co-signatories of the aforesaid development agreement in their capacity as owner No.1 and Owner No.2 respectively.

5. Notwithstanding that there was no agreement of the

petitioner M/s ATS Infrabuild Pvt. Ltd. with M/s Shiwalik Site Planners Pvt. Ltd., however, an application was moved by the applicant-decree holder for attachment of the properties of the petitioner. Pursuant thereto the order of attachment was passed. The said order dated 25.05.2023 is subject matter of challenge in the present petition alongwith the consequential Warrant of Attachment of Account No. 003105029668 of the petitioner herein.

6. Learned counsel appearing on behalf of the petitioner has been confronted with the fact that the petitioner has an efficacious remedy of moving an appropriate application/objections before the Executing Court. He fairly concedes that he shall approach the Executing Court provided his rights are protected and that the account of the petitioner that has been directed to be frozen is causing liquidity crunch to the petitioner-Company. He further submits that the entire awarded amount Rs. 10.15 lacs and as against the said awarded amount, the capital available with the petitioner in the above said Bank Account has been rendered unworthy of any utilization. He undertakes to keep an amount of Rs. 10.15 lacs in the said account and not to withdraw the same, in order to secure the interest of the applicant, if any.

7. In view of the order which this Court proposes to pass, there is no necessity of issuing any separate notice to the respondent concerned. Without commenting on the merits of the present case, the present petition is disposed of with liberty to the petitioner to approach the Executing Court by way of an appropriate application/objections raising all such pleas. In the event of any such objections being raised, the same shall be decided by the Executing Court expeditiously and

without undue delay after affording due opportunity of hearing. In the meanwhile, the order of attachment of Account No. 003105029668 of the petitioner-ATS Infrabuild Pvt. Ltd., which has been ordered to be frozen vide order dated 25.05.2023, and the Warrant dated 07.06.2023 is stayed. Needless to mention that even though the petitioner shall be permitted to operate the above said account, however, a minimum balance of Rs. 10.15 lacs shall be maintained by the petitioner for all such time till the applications/objection of the petitioner is pending consideration before the Executing Court.

The petition is accordingly disposed of.

(VINOD S. BHARDWAJ)
JUDGE

JULY 14, 2023

Vishal sharma

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