

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

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**CWP-18919-2023
Date of Decision: 28.08.2023**

ASHOK GUPTA AND ORS.

... Petitioners

VERSUS

PERMANENT LOK ADALAT AND ANR.

... Respondents

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

Present: Mr. Varun, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

The grievance espoused by the petitioner in the present petition is to the Award dated 16.08.2017 passed by the Permanent Lok Adalat (Public Utility Services), Panchkula to the extent whereby the petitioners had not been awarded the interest from the date of deposit of the amount by the petitioners with the respondent-Builder and instead the interest was granted w.e.f. the date of filing of Application under Section 22-C of the Legal Services Authorities Act, 1987.

Learned counsel for the petitioners has vehemently argued that the petitioners had purchased a Flat No.P-603 measuring 1600 Sq. Feet Super Area from one Pawan Kumar and Himanshu Tuteja. All the installments with respect to the abovesaid property were paid by the petitioners to the respondent No.2 alongwith interest and service tax. Accordingly, a total consideration amount of Rs.42,89,820/- was deposited by the petitioners. The possession of the property was, however, not delivered as per promise. Numerous requests

were made by them to the Developer to deliver the possession of the apartment, however, the possession was still not delivered. Accordingly, a legal notice dated 20.07.2015 was sent by the petitioners to the respondent-Builder, whereafter, the Application under Section 22-C of the Legal Services Authorities Act, 1987 was filed before the Permanent Lok Adalat (Public Utility Services), Panchkula.

Notice was issued to the parties. The respondent entered appearance. Reference is not being made to the stand of the respondents since the same is not essential for decision of the present case. Mediation proceedings as mandated under Section 22-C(4) of the Legal Services Authorities Act, 1987 were initiated and the matter was mutually resolved by the parties during the mediation.

The Permanent Lok Adalat (Public Utility Services), Panchkula thereafter passed the Award on 16.08.2017 whereby the Application was disposed of in view of the amicable settlement between the parties and in exercise of power under Section 22-C(7) of the Legal Services Authorities Act, 1987. The compromise between the parties had been arrived at on 22.12.2016 and the statement of the Managing Director of respondent-Builder had also been recorded. The relevant extract of the impugned Award read as under:

“4. During the course of proceedings before this Court, efforts were made for amicable settlement between the parties Ultimately on 22.12.2016 the parties have arrived at a compromise. Sh. Vinod Bagai Managing Director of the respondent has made statement recorded separately which given as under

“I, Vinod Bagai Managing Director, Samar Estate Pvt. Ltd. state that the possession of the flat in dispute (i.e.

P-603) would tentatively be offered to Sh. Ashok Gupta & ors by on or before 30 April 2017 failing which the amount deposited by Sh. Ashok Gupta & Ors (i.e. Rs42,89,820/-) shall be given to the petitioners/applicants herein along with the rate of interest at the rate of 9% per annum after 30 June, 2017.”

Thereafter, statement of Sh. Ashok Gupta, one of the petitioner and counsel for the petitioners has also been recorded who have heard the statement of the respondent and have no objection that compliance of the above said statement. This Court has provided time for compliance of the statement upto 10.08.2017 but the compliance could not be made by that date. Thereafter further time was provided for compliance of statement dated 22.12.2016 but again the respondent has not made compliance by providing the admitted amount to the petitioners or providing possession of the flat and it was adjourned for 16.08.2017 i.e. today for compliance of the statement but still compliance is not made by the respondent. Therefore this court is left with no option but to pass an award in terms of the statement of Sh. Vinod Bagai, Managing Director of the respondent. This Court passes an award in favour of the petitioner and against the respondent directing the respondent to pay an amount of Rs.42,89,820/- along with interest at the rate of 9% from the date of filing of the petition till the payment is made. The respondent is directed to make payment of the said amount within fifteen days from passing of this order today, failing which the petitioner is at liberty to execute the award in question in a competent Court in accordance with rules and law. The award passed accordingly. File after completion be consigned to record. Copy of this award be supplied to the parties free of costs.”

It is evident that the proceedings culminated in view of the settlement arrived at between the parties before the Permanent Lok Adalat

(Public Utility Services), Panchkula initiated in exercise of power conferred under Section 22-C(4) and 22-C(7) of the Legal Services Authorities Act, 1987 and the same is not an adjudication by the Permanent Lok Adalat (Public Utility Services), Panchkula in terms of the Section 22-C(8) of the Legal Services Authorities Act, 1987.

Since the petitioners had entered into a settlement with the respondent-Builder and there was no settlement about the interest to be paid from the date of deposit of the amount, hence, this Court would not substitute the terms of the compromise between the parties, in exercise of power of judicial review. The settlement amongst the parties being voluntary and without any element of threat, coercion, pressure or undue influence, is binding amongst the parties. The Award being an outcome of settlement by the parties cannot be placed on the same pedestal as adjudication under Section 22-C(8) of the Legal Services Authorities Act, 1987 where consent is missing and is a 3rd party adjudication. The Award being voluntary and out of free will is further supported by the conduct in not raising any challenge for nearly six years despite being aware of the same.

The petitioner had thereafter filed execution of the said Award. It leaves not an iota of doubt that the Award was mutually negotiated and interest w.e.f. date of filing of the Application till payment was agreed upon by the petitioner.

Even otherwise, there is an unexplained inordinate delay of nearly 6 years in approaching this Court and as such, the present petition is grossly delayed. The same would be barred by delay and laches.

Considering it from any of the said perspectives, the present petition is devoid of merit. Accordingly, the same is dismissed in *limine*.

AUGUST 28, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

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