

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

(117)

CWP-22573-2023

Decided on : 16.10.2023

Palm City Welfare Association

.....Petitioner(s)

Versus

State of Haryana & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE SANJIV BERRY**

Present: Mr.Yuvraj Singh Chauhan, Advocate for the petitioner (s).

Mr.Aman Bahri, Addl.A.G., Haryana.

G.S. Sandhawalia, J. (Oral)

1. Prayer in the present writ petition, filed under Article 226 of the Constitution of India is for issuance of directions for compliance of the orders passed by the National Company Law Tribunal (for short, the 'NCLT') dated 10.06.2022 (Annexure P-15). Representation (Annexure P-20) filed by the petitioner for the necessary relief in pursuance of the order of the NCLT was rejected by the State (Annexure P-24) on account of the fact that the matter is under litigation.

2. On 06.10.2023, we passed the following order:

“It has been brought to our notice that an order was passed by the National Company Law Tribunal (NCLT) on 10.06.2022 (Annexure P-15) wherein certain directions have been issued regarding restoration of licence for a period of one year and also to approve the issue of zoning plans without insisting for clearing the outstanding dues. It is pointed out that in the absence of any stay and only on account of the pendency of appeal before the National Company Law Appellate Tribunal (Annexure P-31) filed at the instance of the State, the order is not being implemented. The representation (Annexure P-20) has not been acted upon on account of the pendency of the litigation as per Annexure P-24.

Mr.Bahri, on having advance copy, prays for time to seek the latest status as it is pointed out that applications have also been filed before the NCLT for execution by some of the parties.

List on 16.10.2023.

Needless to say that mere pendency of the present writ petition herein will not, in any manner, de-bar the Appellate Tribunal from proceeding in the matter, in accordance with law.”

3. Today, we have been informed that the Company Appeal (AT) (Insolvency) No.1325 of 2023 titled *Department of Town & Country Planning, Haryana Vs. Manoj Kulshrestha (respondent No.4 herein the Resolution Professional) & another*, has been dismissed on 12.10.2023 on the ground of limitation by the Appellate Tribunal. It has further been brought to our notice that Section 39(8) of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 provides that application can be filed before the adjudicating authority to an order seeking the assistance of the local district administration in implementing the terms of the resolution plan. Similarly, under Section 39(9), a aggrieved creditor can also apply under Sub-section (1) of Section 31 to the adjudicating authority for directions regarding the non-implementation of the resolution plan.

4. We also have been informed by the State Counsel that an application under Section 31 of the said Code along with the above-said regulations has also been filed before the NCLT by respondent No.5 seeking the said relief which the petitioner is also seeking. Para No.45 of the said application reads as under:

“45. That the instant application is bonafide and being filed by the Applicant, Successful Resolution Applicant, in the interest of justice, requesting for summoning and directing the Director, Town & Country Planning Haryana and Haryana RERA to comply with the direction of restoration of licensing and zoning plan and RERA registration qua project Soni Palm City-Karnal.”

5. The grouse of the petitioner is also similar since the NCLT vide the order which is sought to be implemented had directed that the licence of the erstwhile developer be restored for one year qua the project-Soni Palm City, Karnal under the directions issued. Directions were also issued that the

zoning plans be also issued by the Town & Country Planning, Haryana. The relevant directions issued by the NCLT are as under:

- “a) The Resolution applicant therefore, shall adhere to all the applicable laws for the time being in force under the proposed Resolution Plan, whether or not specifically provided therein and the same should not be against any provisions of the existing law.
- b) The Moratorium order passed by this Bench under Section 14 of the Code shall cease to have effect from the date of this order.
- c) The Resolution Professional shall forward all records relating to the CIR Process and the Resolution Plan to IBBI to be recorded at its database in terms of Section 31(3)(b) of the Code.
- d) The approved Resolution Plan shall become effective immediately from today the date of passing of this order.
- e) The Approval Resolution Plan shall be part of this order.
- f) SRA-Srijan Infra LLP shall submit the requisite Bank Guarantee of the total amount likely to be fall to the corporate debtor.
- g) Director, Town & Country Planning, Haryana is also directed to restore the license (qua project Soni Palm City-Karnal), for one year within 15 days of the receipt of this order.
- h) Director, Town & Country Planning, Haryana shall approve and issue “zoning plan” immediately within 30 days (which is already submitted by corporate-debtor), without insisting for clearance of outstanding dues.
- i) SRA-Srijan Infra LLP would make the payment of dues to DTCP as per Resolution Plan qua project Soni Palm City-Karnal.
- j) SRA-Srijan Infra LLP would immediately get the sale-deed/conveyance-deed executed in the faovur of the home-buyers/allottees within 30 days of the receipt of this order, subject to the clearance of outstanding dues/ pending dues or payment as per Resolution Plan with respect to individual plots.
- k) SRA-Srijan Infra LLP would get the project Soni Palm City-Karnal registered with HRERA as per rules & regulations within 15 days.
- l) SRA-Srijan Infra LLP must open an escrow account immediately within seven days and shall publish this account in the nationalized Newspaper and circulated in the area to invite the home-buyers/allottees to deposit the remaining dues and get the sale-deed/

conveyance deeds executed in their favour. Each withdrawal of the amount from the said account shall be brought in the notice of this tribunal without any delay by SRA.

m) The sale if any made of the unsold plot/ inventory of the corporate debtor, which are either restored by virtue of the disposal of the interlocutory applications pending in this matter or otherwise, shall be reported to this Tribunal within a period not later than 15 days from the date of transfer of the said plot. The Tribunal further records that the present market price in vicinity of the project Soni Palm city is more than Rs.70000-80,000/- per sq.yard.”

6. Resultantly, keeping in view the above, since there is an alternate and efficacious remedy available to the petitioner in view of the judgment of the Apex Court in **Union Bank of India Vs. Satyawati Tondon and others, (2010) 8 SCC 110** and since respondent No.5 the successful resolution applicant-M/s Srijan Infra LLP has already filed the application before the Tribunal which is now pending for 20.11.2023, we are of the considered opinion that the same issue cannot be adjudicated before the two different forums.

7. Accordingly, we are not inclined to entertain the present writ petition under Article 226 of the Constitution of India. However, liberty is granted to the petitioner to join the said proceedings by filing an appropriate application before the NCLT.

8. With the above-said observations, the present writ petition stands dismissed, with the aforesaid liberty.

(G.S. SANDHAWALIA)
JUDGE

(SANJIV BERRY)
JUDGE

16.10.2023
Sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No