

CWP-56-2024
and other connected matters

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 13.05.2024

1. CWP-56-2024

Plaza Fincap Private Limited Petitioner

Vs.

District Commissioner-cum-Collector, Gurugram
and others Respondents

2. CWP-605-2024

Suman Govil and another Petitioners

Vs.

State of Haryana and others Respondents

3. CWP-646-2024

Jivtesh Govil and another Petitioners

Vs.

State of Haryana and others Respondents

4. CWP-3668-2024

Seema Kapoor Petitioner

Vs.

State of Haryana and others Respondents

5. CWP-3671-2024

Seema Kapoor Petitioner

Vs.

State of Haryana and others Respondents

6. CWP-3729-2024

Harish Chander Goyal Petitioner

Vs.

State of Haryana and others Respondents

7. CWP-4295-2024

Manju Gaur through authorised signatory Petitioners

Vs.

State of Haryana and others Respondents

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8.	CWP-4452-2024	
	Manoj Gaur through authorised signatory	 Petitioner
	Vs.	
	State of Haryana and others	 Respondents
9.	CWP-4514-2024	
	Deep Nath Sharma	 Petitioner
	Vs.	
	State of Haryana and others	 Respondents
10.	CWP-20906-2024	
	Babu Lal Poddar	 Petitioner
	Vs.	
	District Collector, Gurugram and others	 Respondents
11.	CWP-9232-2024	
	Ranjana Sinha and another	 Petitioners
	Vs.	
	State of Haryana and others	 Respondents
12.	CWP-7133-2024	
	Shuchi Sur	 Petitioner
	Vs.	
	State of Haryana and others	 Respondents
13.	CWP-6220-2024	
	Ishan Bansal and another	 Petitioners
	Vs.	
	State of Haryana and others	 Respondents
14.	CWP-6321-2024	
	Rajni Mehta	 Petitioner
	Vs.	
	State of Haryana and others	 Respondents

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15. CWP-6325-2024

Saroj Rathi Petitioner

Vs.

State of Haryana and others Respondents

16. CWP-7196-2024

Ajay Narain Gupta Petitioner

Vs.

State of Haryana and others Respondents

17. CWP-7205-2024

Gaurav Choudhary Petitioner

Vs.

State of Haryana and others Respondents

18. CWP-7211-2024

Shipra Gupta Petitioner

Vs.

State of Haryana and others Respondents

19. CWP-7279-2024

Mohit Khirbat Petitioner

Vs.

State of Haryana and others Respondents

20. CWP-9612-2024

Rajesh Khurana and another Petitioners

Vs.

State of Haryana and others Respondents

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21. CWP-10320-2024

Sanjeev Bhardwaj Petitioner

Vs.

State of Haryana and others Respondents

22. CWP-10457-2024

Satish Kumar Sharma Petitioner

Vs.

State of Haryana and others Respondents

23. CWP-10677-2024

Sudhir Singh Yadav Petitioner

Vs.

State of Haryana and others Respondents

24. CWP-11009-2024

Meera Bhargava Petitioner

Vs.

State of Haryana and others Respondents

25. CWP-11012-2024

Suresh Chander Gupta Petitioner

Vs.

State of Haryana and others Respondents

CORAM: HON’BLE MR. JUSTICE ARUN PALLI
HON’BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Rana Gurtej Singh, Advocate and
Mr. Nikhil Goyal, Advocate
for the petitioner (in CWP-56 of 2024).
Mr. Jasraj Singh, Advocate
for the petitioners (in CWP-605-646 of 2024).
Mr. Madhur Panwar, Advocate and



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Mr. Drupad Sangwan, Advocate
for the petitioners (in CWP-4295-4452 of 2024).
Mr. Shekhar Verma, Advocate
for the petitioners (in CWP-4514 of 2024).
Mr. Manoj Yadv, Advocate and
Mr. Anil K. Ranolia, Advocate
for the petitioners (in CWP-20906 of 2023).
(through hybrid mode)
Mr. Yaseen Sethi, Advocate
for the petitioners (in CWP-7196, 7211 of 2024).
Mr. Yashvir Singh Balhara, Advocate
for the petitioner (in CWP-7205 of 2024).
Ms. Aarti Gupta, Advocate
for the petitioners (in CWP-10457 of 2024)
Mr. Sahej Mahajan, Advocate
for the petitioners (in CWP-10320 of 2024).
Mr. Arun Sharma, Advocate and
Mr. Harish Mehla, Advocate
for the petitioners (in CWP-9612, 10677, 6325, 9612, 3729,
7133, 7279 and 6220 of 2024)
Mr. Nitin Thatai, Advocate
for the petitioners (in CWP-3668 and 3671 of 2024).
Mr. Reshabh Bajaj, Advocate and
Mr. Shanker Wig, Advocate
for the petitioners (in CWP-9232-2024).
Mr. Akhil Aggarwal, Advocate
for the petitioners (in CWP-11009 and 11012 of 2024).

Mr. Ankur Mittal, Additional Advocate General, Haryana with
Mr. Karan Jindal, Assistant Advocate General, Haryana and
Ms. Kushaldeep Kaur, Advocate

ARUN PALLI, J (Oral)

For, there is a consensus between the learned counsel for the parties that the matter in issue in this bunch of 25 petitions is identical, these are being disposed of by a common order and judgment. However, the facts are being derived from **CWP No.56 of 2024 (Plaza Fincap Private Limited vs. District Commissioner-cum-Collector, Gurugram and others)**.

For, the order passed by this Court on April 02, 2024, would give an insight into the dispute at hand, we do not consider it expedient to narrate the factual background:

“The petitioners before us, in this bunch of 17 petitions, happened to be the complainants before the Haryana Real Estate Regulatory Authority, Gurugram. The complaints moved by them under Section 31 of the Real Estate



(Regulation and Development) Act, 2016, were allowed years ago. Whereafter, upon initiating the execution proceedings, the competent authority (Adjudicating Officer), issued the recovery certificates whereby the amount, the complainants were entitled to, was determined. In essence, the grievance of the petitioners is that although years have rolled by, but, the authorities have apparently failed to recover the decretal amount. Resultantly, the petitioners continue to suffer. Rather, with reference to the decision rendered by this Court on 17.08.2022 in CWP No. 7738 of 2022 (M/s International Land Developers Private Limited vs. Aditi Chauhan and others, and other connected matters), learned counsel for the petitioners asserts that there is wilful defiance of the said decision by the respondent authorities. Thus, in the given circumstances, it is urged that proceedings under the Contempt of Courts Act be initiated against the erring officers/officials.

We consider it expedient to mention, at this stage, that we have come across many such cases and records are replete where investors were constrained to approach this Court, for the authorities failed to execute the recovery certificates, though years have gone by.

Upon being pointedly asked, Mr. Ankur Mittal, Additional Advocate General, Haryana, submits that even though, he has repeatedly written to the District Commissioner-cum-Collector, Gurugram, followed by reminders, but no assistance is forthcoming. And, even the learned Advocate General, Haryana, has been apprised of the matter. He submits that even though a short response on behalf of respondent No.1 was filed, but that too is not satisfactory. Accordingly, we had required the learned Advocate General, Haryana to appear and assist the Court. However, post recess, when the matter was taken up, we are



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informed that he is busy before a co-ordinate Bench, in a matter that is in progress since morning. Accordingly, a short accommodation is prayed for.

In the interest of justice, adjourned to 24.04.2024.

A photocopy of this order be placed on the files of connected cases.”

Accordingly, two affidavits, one by the Deputy Commissioner, Gurugram, dated 23.04.2024 and the other by the Additional Chief Secretary, Town and Country Planning Department, Chandigarh, dated 24.04.2024, were filed on the adjourned date. And, the learned Advocate General, Haryana, had assured the Court that a comprehensive mechanism was being devised to streamline the process of recovery:

“In response to our order dated 02.04.2024 (in CWP-56-2024), learned Advocate General, Haryana has caused appearance. And, two affidavits on behalf of Deputy Commissioner, Gurugram (respondent No.1), dated 23.04.2024, as also the Additional Chief Secretary, Town and Country Planning Department, Chandigarh, dated 24.04.2024, have been filed in Court today, which are taken on record. Copy furnished.

While taking us through the averments set out in the affidavit furnished by respondent No.1, learned Advocate General submits that a comprehensive mechanism is being devised to streamline the recovery process, to ensure that post issuance of the recovery certificate, the execution proceedings are finalised at the earliest. He submits that records of all the petitions, which are listed before us, have been scrutinized and the necessary steps to execute the decrees passed in favour of the petitioner(s) have also been initiated.

A short accommodation is prayed for to file a status report as to the outcome of the exercise that is purportedly being carried out.



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Adjourned to 13.05.2024.

A photocopy of this order be placed on the files of other connected cases.”

Today, another affidavit dated 12.05.2024 of the Deputy Commissioner-cum-Collector, Gurugram, has also been filed in Court, which is taken on record. Copy furnished.

A bare analysis of the said affidavit reveals that in **CWP No.4295 of 2024 (Manju Gaur through authorized signatory vs. State of Haryana and others)**; **CWP No.4452 of 2024 (Manoj Gaur vs. State of Haryana and others)**; **CWP No.605 of 2024 (Suman Govil and another vs. State of Haryana and others)**; **CWP No.646 of 2024 (Jivesh Govil and another vs. State of Haryana and others)**; **CWP No.6321 of 2024 (Rajni Mehta vs. State of Haryana and others)**; **CWP No.5659 of 2024 (Tinkey Jain vs. State of Haryana and others)** and **CWP No.7205 of 2024 (Gaurav Choudhary vs. State of Haryana and others)**, the recovery certificates have since been executed and the amount stands recovered to the satisfaction of the Decree Holders.

As regards **CWP No. 7196 of 2024 (Ajay Narain Gupta vs. State of Haryana and others)** and **CWP No. 7211 of 2024 (Shipra Gupta vs. State of Haryana and others)**, the decree passed in favour of the petitioners has partially been executed and the proceedings are pending.

In **CWP No.56 of 2024 (Plaza Fincap Private Limited vs. District Commissioner-cum-Collector, Gurugram and others)**, papers have been moved for attachment of the property of the Judgment Debtor, whereafter the property would be put to auction.

Whereas, in **CWP No. 3668 and 3671 of 2024 (Seema Kapoor vs. State of Haryana and others)** and **CWP No.3729 of 2024 (Harish Chander Goyal vs. State of Haryana and others)**, the recovery certificates were issued against a common promoter i.e. M/s Imperia Wishfield Private Limited. And, the entire land that belonged to the promoter, within the jurisdiction of the Sub Tehsil Kadipur, has since been attached vide Rapat No.257 dated 05.11.2022. Since no vacant land is now



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available for attachment, the recovery certificates have been sent back to the Haryana Real Estate Regulatory Authority, Gurugram for necessary orders. Similarly, in **CWP No. 7279 of 2024 (Mohit Khirbat vs. State of Haryana and others)**, post issuance of the recovery certificates, notices were issued to the promoter (M/s Parsvnath Developers Pvt. Ltd.) on 23.04.2024. And, in addition to the said certificate, 27 more certificates have also been received against the same promoter for recovery. Accordingly, with reference to the averments set out in paragraph 8 of the affidavit, he submits that the certificates, where it is not found viable to execute the decrees, the matter shall have to be returned to the Adjudicating Officer for necessary orders. All in all, it is indicated that every possible endeavour is being made to expedite the process of recovery, so that the decrees are executed without any undue delay.

Learned Additional Advocate General, Haryana has also shared with us a copy of the Gazette Notification dated 11.05.2024, issued by the Haryana Government, Personnel Department, which is retained on record as “Mark-X”. And, analysis thereof reveals that in exercise of powers conferred by Sections 10 and 27 of the Haryana Land Revenue Act, 1887, read with Section 83 of the Real Estate (Regulation and Development) Act, 2016, powers of the Collector, for execution of recovery warrants/certificates under the Act of 1887, have since been vested with the Adjudicating Officer appointed under the Act of 2016. Further, all pending recoveries with the District Collectors in the State of Haryana, initiated pursuant to the receipt of recovery certificates, shall stand transferred to the Adjudicating Officer of respective authority from the date of publication of the notification. Further, he submits that a standard operating procedure, pursuant to the notification, is being finalized and is at an advance stage which shall be released/notified soon, to enable the Adjudicating Officer to finalize the execution proceedings. Still further, he submits that even the necessary amendment, in terms of the decision dated 17.08.2022 rendered by this Court in **CWP No. 7738 of 2022 and other connected matters (M/s International Land Developers Private Limited vs. Aditi Chauhan and**



others), in Haryana Real Estate (Regulation and Development) Rules, 2017, is being carried out. And the matter is at the final stage.

In response to the apprehensions being expressed by the learned counsel for the petitioners that since in sync with the earlier procedure that was being followed, the District Collector(s), to execute the recovery certificates, have already taken definite steps, and the transfer of those proceedings, pursuant to the notification dated 11.05.2024, may result in re-initiation of the execution process, learned Additional Advocate General, Haryana, submits that the proceedings that would be transferred to the Adjudicating Officer(s), shall be proceeded further from the stage it had already reached.

That being so, learned counsel for the petitioners submit that let these petitions be disposed of, to enable the petitioners, if so required, to now pursue the matter with the respective Adjudicating Officers for execution of the decrees passed in their favour.

In the wake of the position sketched out above, and in terms of the statements made by learned counsel for the parties, the petitions are accordingly disposed of.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

13.05.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No