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

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CWP-10157-2024
Date of decision: 03.05.2024

THE CHAIRMAN, FARIDKOT IMPROVEMENT TRUST AND ANOTHER

......Petitioner

VERSUS

AMARJEET SINGH AND ANOTHER

.......Respondents

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

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Present: - Mr. Rakesh Roy, Advocate for
Mr. Abhilaksh Gaind, Advocate
for the petitioner
(Through Video Conferencing)

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VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present writ petition is for seeking quashing of the order dated 12.07.2023 (Annexure P-8) passed by the National Consumer Disputes Redressal Commission (NCDRC), New Delhi in FA No. 94 of 2019.

2. Briefly stated the facts of the present case are that the petitioner-Improvement Trust floated a scheme for allotment of residential plots in Baba Jeewan Singh Nagar in Faridkot near Ferozepur Road, by issuing an advertisement in multiple newspapers, in the year, 2013. The respondent No.1 applied for plot under the aforementioned scheme and was

successful in allotment of a plot measuring 300 Sq. Yards, by way of draw of lots. A letter of allotment was issued in favour of the respondent on 02.04.2014. An agreement for sale of the plot No. 143 measuring 300 Sq. Yards was executed for a total sale consideration of Rs. 24,75,000/-. The petitioner-Improvement Trust contends that he had requested the Water Supply and Sewerage Department to send the layouts for approving and carrying out the work on project, however, no reply was received whereafter repeated reminders were sent by it. The resolutions were also passed by the petitioner-Improvement Trust and the same were forwarded to the Secretary of the Local Government for approval, which was eventually granted on 07.10.2015. The work of development was eventually allotted to M/s Shiva Enterprises on 20.04.2016 and other ancillary works were allotted to different Construction and Cooperative Societies.

3. It is submitted that during the pendency of the aforesaid construction work at the project, the respondent-Consumer filed a complaint on 14.11.2017 alleging that no development had taken place at the allotment site and that the agreed time limit for raising construction on the site was 36 months from the date of allotment letter and that the same had expired. The allottee accordingly moved a complaint before the State Consumer Disputes Redressal Commission, Punjab. As no reply was filed by the petitioner-Improvement Trust, the right of the petitioner to file written statement was struck off vide order dated 30.07.2018. Aggrieved thereof, the petitioner preferred an appeal before the National Commission. Notice was issued in the above said appeal on 12.12.2018 and the State Commission was directed to defer pronouncement of the orders by two weeks. The said appeal was eventually allowed and the petitioner-Trust was permitted to file written

statement vide order dated 20.12.2018. The petitioner-trust filed an application before the State Commission to apprise about the order passed by the Hon'ble National Commission, however, even thereafter the said application was dismissed vide order dated 02.01.2019. Aggrieved thereof, an appeal was filed yet again by the petitioner-Trust bearing FA No. 94 of 2019. The said appeal was further disposed of by the National Commission vide order dated 12.07.2023 directing the petitioner to refund the entire amount paid by the respondent-Consumer.

4. Hence, the present appeal.

5. Hence It is contended by the petitioner that the Coordiante Bench of the National Commission had disposed of various similar revision petitions bearing ***RP No. 2023/2017*** titled ***"Faridkot Improvement Trust versus Naresh Kumar" as well as FA No. 1342 of 2018*** *titled* ***"The Faridkot Improvement Trust versus Navdeep Goyal'*** wherein interest @ 10% per annum is being awarded and the litigation cost was kept at Rs. 25,000/-, however, in the present case, the interest has been awarded @ 12% per annum while the litigation expenses have been awarded at Rs. 50,000/-. He contends that a parity has not been maintained by the Hon'ble National Commission and interest, as at the rate awarded by the Coordinate Bench, ought to have been awarded in the present case also. It is further submitted that SLP (C). No.40400-2023 was filed by the petitioner-Improvement Trust against the above decision of the National Consumer Disputes Redressal Commission, however, the same was withdrawn to file the present writ petition in terms of the judgment dated 26.07.2023 passed in SLP (Civil) No. 5263 of 2023 titled M/s Universal Sompo General Insurance Co. Ltd. versus Suresh Chand Jain and another"

6. Counsel for the petitioner further contends that he confines his prayer only to the extent of the excess rate of interest that has been awarded by the National Consumer Disputes Redressal Commission in FA No. 94 of 2019 whereby the petitioner-Improvement Trust has been burdened with interest liability at the rate of 12% per annum and has been burdened with litigation expenses to the tune of Rs. 50,000/- which are on the higher side and ought to be reduced.

7. I have heard learned counsel appearing on behalf of the petitioner and have gone through the order passed by the National Consumer Disputes Redressal Commission in appeal.

8. It is evident that the National Commission was informed about the order passed by the Coordinate Bench in First Appeal No. 1342 of 2018 titled as ***'The Faridkot Improvement Trust versus Navdeep Goyal'*** **dated 16.08.2022,** and that the relief in the present case has also been directed in terms of the said award which had been upheld by the Hon'ble Supreme Court. The operative part of the impugned award reads thus:-

> *"7. In view of the aforesaid submissions made at the bar and the circumstances of the case, it is deemed fit to modify the award made by the State Commission to the extent and effect that (i) the entire deposited amount of the complainant with the opposite parties shall be refunded along with interest @ 10% per annum from the date of deposits till actual refund of the said amount, (ii) the cost of litigation to the tune of Rs. 50,000/- is also awarded and shall be paid to the complainant, (iii) the entire payment shall be made within eight weeks from today, failing which the amount shall attract interest @ 12% per annum. The amount, if any, deposited in compliance of this Commission's Order dated 28.02.2019 shall be released to the complainant along with the interest accrued thereupon. The*

> *residual amount shall be made good by the opposite party within eight weeks from today, failing which the complainant would be at liberty to approach the executing court for recovery of the same. On receipt of such an execution application of the State Commission shall undertake execution, for 'enforcement' and for 'penalty', as per the law.*

9. A perusal of the aforesaid impugned award shows that the interest has actually been awarded by the National Commission @ 10% and that the interest of 12% is attracted only in an event the payment is not made within the prescribed time schedule. Hence, it is incorrect that the National Consumer Disputes Redressal Commission awarded a higher rate of interest, rather, National Consumer Disputes Redressal Commission afforded an opportunity to the petitioner-Improvement Trust to release the amount in a time bound manner with 10% interest and that an inordinate delay in release of dues attracted a higher rate of interest. The petitioner-Improvement Trust has failed to assign any cogent reason as to why it failed to comply with the said Award passed by the National Consumer Disputes Redressal Commission. Moreover, it is not in dispute that identical relief was also awarded by the National Consumer Disputes Redressal Commission in the matter of "***The Faridkot Improvement Trust versus Navdeep Goyal" (supra)*** against which SLP No. 41614 of 2022 was dismissed by the Hon'ble Supreme Court. The case of the respondent was placed at par with the above. Once the National Consumer Disputes Redressal Commission has passed its award at parity with the case of ***Navdeep Goyal*** (supra), the said award can not be impugned solely on the ground that parity should have been with another case. The National Consumer Disputes Redressal Commission has granted parity with the case of Navdeep Goyal and it cannot be said to be an illegality or impropriety.

10. Under the given circumstances, I do not find that there is any gross illegality, impropriety or perversity in the award passed by the National Consumer Disputes Redressal Commission. The High Court does not exercise an appellate jurisdiction against the award passed by the National Consumer Disputes Redressal Commission and it merely acts as a revisional authority on such awards. The evidence and contentions of the petitioner having already been appreciated by the National Consumer Disputes Redressal Commission in the appeal thus, the High Court would not ordinarily re-visit the evidence and substitute its opinion for that of the National Consumer Disputes Redressal Commission.

11. The present writ petition is accordingly dismissed. The award passed by the National Consumer Disputes Redressal Commission is affirmed.

(VINOD S. BHARDWAJ)
JUDGE

MAY 03, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No