

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

228-1 CWP-16496-2020

RAJBIR ... Petitioner

VERSUS

PERMANENT LOK ADALAT PANIPAT AND ORS ... Respondents

228-2 CWP-16497-2020

DHARAMBIR SANDHU ... Petitioner

VERSUS

PERMANENT LOK ADALAT PANIPAT AND ORS ... Respondents

228-3 CWP-16534-2020

KRISHAN KUMAR BATRA ... Petitioner

VERSUS

PERMANENT LOK ADALAT PANIPAT AND ORS ... Respondents

228-4 CWP-16535-2020

HARSH ARORA AND ANOTHER ... Petitioners

VERSUS

PERMANENT LOK ADALAT PANIPAT AND ORS ... Respondents

228-5 CWP-16549-2020

KRISHAN KUMAR ... Petitioner

VERSUS

PERMANENT LOK ADALAT PANIPAT AND ORS ... Respondents

228-6

CWP-16571-2020

Date of Decision: 18.01.2024

RAJ KUMAR

... Petitioner

VERSUS

PERMANENT LOK ADALAT PANIPAT AND ORS

... Respondents

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

Present: Mr. Manish Gupta, Advocate
for the petitioner(s).

Mr. Vivek Chauhan, Addl. A.G., Haryana.

Mr. Ajay Ghangas, Advocate
for respondents No.2 to 4 in CWPs-16496 and 16497 of 2020 &
for respondents No.2 to 7 in CWPs-16534, 16535, 16549 and
16571 of 2020.

VINOD S. BHARDWAJ, J. (ORAL)

Since common issues arise in the present bunch of writ petitions, the same are being decided by a common order. For the facility of reference, the facts are being extracted from CWP-16496 of 2020 titled as "Rajbir Vs. Permanent Lok Adalat (Public Utility Services), Panipat and others."

Learned counsel for the petitioners contends that the respondent-Developer had launched its project namely Lotus Green City to be developed in Sectors 40 and 19-A, Panipat in the year 2012 and offered plots of different sizes alongwith developed infrastructure i.e. road, sewerage, parks etc. In the year 2013, the petitioner and his brother contacted the respondent-Developer and booked plot in the project of the respondent-Developer, on premium, by depositing a sum of Rs.7,00,000/- with the respondent-Developer. Various

amounts were deposited with the respondent-Developer at different points in time for which the acknowledged payment deposit receipts were placed before the Permanent Lok Adalat (Public Utility Services), Panipat. After the transfer of plot in the name of the petitioners, they approached the respondent-Developer to physically show the plot, status of development and delivery of possession. It was, however, informed that on account of certain pending dispute with the office of Town Planning, the Company was required to leave 20 acres of project land for public utility services and that approval of the revised layout plan was still awaited. As and when the revised layout plan is accepted and the demarcation-cum-zoning is approved, the company would be in a situation to confirm allotment and advance development of the project. The petitioners approached the respondent-Developer even thereafter on numerous occasions for handing over delivery of possession of the plot, however, the needful could not be done. Resultantly, the petitioners approached the Permanent Lok Adalat (Public Utility Services), Panipat under Section 22-C of the Legal Services Authorities Act, 1987.

The respondent-Developer entered appearance before the Permanent Lok Adalat (Public Utility Services), Panipat and it was contended that the respondent-Developer was unable to hand over the possession of the plot due to force majeure conditions beyond its control. The relevant response is extracted as under:-

“i. The respondent has obtained the license no. 40 of 2011 dated 29th April, 2011 alongwith all statutory approvals for land measuring 103.225 acres for the development of residential plotted colony at Panipat. But out of the said nearly 20 acres of land falling on 140M vide in the license area was demarcated as

public utility belt meaning thereby that no plotted development or any activity pertaining colony was granted without all charges were taken from the respondents. The respondent has agitated the matter before Financial Commissioner and Financial Commissioner accepted the appeal vide its order dated 12.03.2012 and the respondent has submitted a revised layout plan which was approved by Department of Town and Country Planning on 17.10.2014. Whereas the demarcation cum Zoning plan is still awaited for residential plotted colony admeasuring 103.225 acres.

ii. It is further submitted that Shri Rakesh Kadyan Ld. Civil Judge, (Junior Division) Panipat had made the status quo order with regard to construction at the site in the case titled as "Raghubir and other Vs. Sarthi Buildprop Private Limited and others" vide order dated 31.05.2014 and later on the suit for Permanent Injunction has been decreed vide order dated 07.12.2015. Now, the said judgment has been challenged by the respondent in the court of Ld. District Judge, Panipat which is pending before the court of Sh. Ved Parkesh Sirohi Ld. Additional District Judge, Panipat.

iii. In clause no.19 it is clearly mentioned that if the company forced to abandon the said project due to force majeure circumstances or for the reason beyond its control the company shall refund the said amount paid by the applicant due to stay order the respondents is helpless to create the townships and the respondent undertakes that they will not charge any interest for delayed period due to Order of Ld. Civil Court and if the applicant is not ready for it then he is entitled his amount without any interest."

It was thus contended that there was no delay, lapse or negligence on the part of the respondent-Developer and that the circumstances

referred to thereunder were beyond their control. Thus, it cannot be held accountable or liable to compensate.

On failure of the conciliation proceedings to resolve the dispute, adjudication under Section 22-C(8) of the Legal Services Authorities Act, 1987 was undertaken.

Parties led their respective evidence and upon consideration of the respective submissions, the Permanent Lok Adalat (Public Utility Services), Panipat allowed the Application and directed the respondents to refund the deposited amount of Rs.19,31,445/- alongwith interest @ 9% per annum from the date of the filing of the Application till the date of Award. A further interest @ 6% per annum from the date of Award till realization of the entire amount within two months was also awarded, failing which, the interest was to increase at the rate of 12% per annum. The relevant part of the Award read thus:

“14. Hence, in view of the above discussion, the application is hereby accepted and an award passed in favour of the applicant and against the respondents directing them to refund sum of Rs.19,31,445/- alongwith an interest @ 9% p.a. from the date of filling the present application till the date of award and further interest at the rate of 6 percent per annum from the date of award till the realization of the entire amount within 2 months, failing which the respondents will have to pay the interest at the rate of 12 percent per annum from the date of filling the present application till the realization of the entire amount. The applicant is also entitled to a sum of Rs.5,000/- towards the deficiency in service, his harassment physical as well as mental from the respondents with costs of the present application which is

*assessed for Rs. 2,000/-. Memo of costs be prepared accordingly.
File be consigned to record room."*

Dissatisfied, the petitioners have approached this Court and contend that the interest @ 9% per annum has been awarded from the date of filing of the Application before the Permanent Lok Adalat (Public Utility Services), Panipat, whereas the interest in question ought to have been awarded to them w.e.f. the date of amount having been deposited with the respondent-Developer. He further contends that w.r.t. the same very project, the respondent-Developer had earlier approached this Court in CWP-506 of 2018 titled as "M/s Lotus Infra Estates Private Ltd. Versus The Permanent Lok Adalat and others" against an Award passed by the Permanent Lok Adalat (Public Utility Services), Panipat dated 15.03.2017 since interest at the rate of 18% per annum had been awarded to the allottees therein. The petitioner company offered to refund the principal amount and restricted its prayer for reduction of rate of interest. The rate of interest was accordingly reduced to 9% per annum. He contends that the said interest i.e. @ 9% per annum had been awarded w.e.f. the date of the deposit of the amount by the allottees with the respondent-Developer in similar cases and the same has already been accepted by the Developer for similarly placed allottees.

Counsel for the respondent-Developer contends that the said order was passed on the basis of consent of the respondent-Developer and thus would not lay down any ratio of law. However, he is not in a position to controvert that 9% rate of interest from the date of deposit of the amount has already been accepted by the respondent-Developer in the cases of other

similarly placed allottees. There is no reason as to why such disparity ought to be extended in other case.

Accordingly, the present writ petitions are partly allowed. The Award passed by the Permanent Lok Adalat (Public Utility Services), Panipat is modified to the extent whereby the interest has been awarded @ 9% per annum from the date of the filing of the Application before the Permanent Lok Adalat (Public Utility Services), Panipat; and it is directed that the petitioners shall be entitled to interest @ 9% per annum from the date of deposit of the amount. All other directions contained in the Award shall remain intact.

Petitions are partly allowed accordingly.

Photocopy of this order be placed on the files of other connected cases.

JANUARY 18, 2024

rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No