

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CWP-17235-2016
Date of decision: 23.04.2024

SHAKTI SINGH
.....Petitioner

VERSUS

PERMANENT LOK ADALAT PUBLIC UTILITY SETVICES GURGAON
AND ANOTHER
.....Respondents

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

Present: - Mr. Rakesh Dhiman, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present writ petition is for modifying the impugned Award dated 05.04.2016 (Annexure P-1) passed by Permanent Lok Adalat (Public Utility Services), Gurugram whereby the amount deposited by the petitioner has been directed to be refunded alongwith interest @ 10% per annum from the date of last payment whereas the petitioner claims that the refund ought to have been allowed alongwith interest with effect from the date when the payment was deposited and not with effect from the date of last payment.

2. No one had been appearing on behalf of the respondent No.2 despite service. He was proceeded against ex-parte vide order dated 30.01.2024. The matter was thereafter adjourned to 24.04.2024 for awaiting appearance on behalf of the said respondent, if so advised. However, as no one appeared on behalf of respondent No.2, hence, Ms. Samridhi Sareen, Advocate has been appointed as Legal Aid Counsel to assist this Court. She has gone through the present case after obtaining copy thereof and has assisted this Court.

3. Learned Counsel appearing on behalf of the petitioner, has argued that the applicant had booked a flat measuring 350 sq. ft. in residential project "Dev City Bhiwadi" and paid a sum of Rs. 25,000/- as booking amount through cheque No. 254827 dated 25.01.2008 drawn on ICICI Bank. He was allotted registration No. 623934 by the respondent. A sum of Rs. 1,86,000/- was deposited by the petitioner-applicant by way of monthly installments. A letter of allotment dated 09.12.2009 was also issued in favour of the petitioner in respect of Flat No. D-64/16, 3rd Floor in Dev City, Bhiwadi, however, the actual physical possession of the said flat had not been delivered. Various attempts and letters were sent by the petitioner for seeking delivery of possession, however, the same was put off on one pretext or the other. Aggrieved of such inordinate delay, false assurance and evasive attitude, application under Section 22 (C) of the Legal Services Authorities Act, 1987 was instituted by the petitioner before the Permanent Lok Adalat (Public Utility Services), Gurugram.

4. The respondent No.2-Company entered appearance before the Permanent Lok Adalat and filed written statement. It did not dispute the averment made, however, an argument was raised that the Permanent Lok

Adalat (Public Utility Services), Gurugram did not have jurisdiction since the flat was situated in Bhiwadi, Rajasthan. It was also pleaded that only a sum of Rs. 1,14,000/- had been received by them and that the petitioner was not regularly paying the installments and that the application is liable to be dismissed.

5. Efforts were made for amicable resolution of the dispute through the conciliation, however, the same failed resulting in the Permanent Lok Adalat (Public Utility Services), Gurugram to adjudicate the lis under Section 22 (C)(8) of the Legal Services Authorities Act, 1987.

6. The parties led their respective evidence and upon consideration thereof, the application filed by the petitioner-applicant was allowed and the respondent No.2 was directed to refund the sum of Rs. 1,86,000/- alongwith interest @ 10% per annum w.e.f. 17.12.2013 when the last payment was made till the date of release of actual payment.

7. Learned counsel appearing on behalf of the petitioner contends that the petitioner was entitled to interest with effect from the date when the payment was deposited and not with effect from the last date as the respondent No.2 had been enjoying fruits of the payment deposited by the petitioner for a period of nearly 05 years before the last payment was made and that the applicant cannot be denied the relief of interest for the said period especially when the Permanent Lok Adalat (Public Utility Services), Gurugram recorded a finding and noticed that there was a defect and default on the part of the respondent No.2 itself.

8. The Legal Aid Counsel for respondent No.2 has however contended that the Permanent Lok Adalat (Public Utility Services), Gurugram had noted that the appellant was in default in making the payment

and there had been no delay on the part of the respondent No.2 in discharging its obligations. She further contends that there was no territorial jurisdiction of the Permanent Lok Adalat (Public Utility Services), Gurugram since the property in question was situated in Bhiwadi, Rajasthan and that the issue could not have determined by the Courts at Gurugram. She further contends that the receipts were showing a payment of Rs. 1,14,000/- only whereas the Permanent Lok Adalat (Public Utility Services), Gurugram has directed a payment of Rs.1,86,000/- which was without any basis.

9. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents available on record.

10. Insofar as the objections raised by the Legal Aid Counsel as regards the maintainability of the petition before the Permanent Lok Adalat (Public Utility Services) at Gurugram as well as about the award of a sum of Rs. 1,86,000/- by the Court is concerned, it is held that since the respondent No.2 has not chosen to file and prefer any writ petition against the said award, hence, the respondent No.2 is not entitled to dispute the factual findings recorded by the Court. It thus accepted the award passed by the Permanent Lok Adalat.

11. Having held so, the question which next arises for consideration is as to the date with effect from which the applicant would be entitled to compensatory interest on the amount deposited by him with the respondent No.2. The specific case of the petitioner being that the booking amount was deposited by the petitioner in 2008 and that thereafter monthly installments were paid by him and as many as 25 original receipts were also exhibited, I am of the opinion that the present writ petition deserves to be allowed.

Interest is awarded to compensate the person aggrieved for not being able to

enjoy his money while the respondent retained the money and enjoyed and utilized the same.

12. The petitioner is hence entitled to interest as awarded by the Permanent Lok Adalat (Public Utility Services), Gurugram with effect from the date of its deposit, till its actual refund. The present petition is accordingly allowed as above and the award dated 05.04.2016 passed by the Permanent Lok Adalat (Public Utility Services), Gurugram is accordingly modified in the above said terms.

The writ petition is accordingly allowed in said term.

(VINOD S. BHARDWAJ)
JUDGE

APRIL 23, 2024
Vishal Sharma

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