

THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH.

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CWP-27309-2016 (O&M).
Date of Decision: 10.01.2024.

**HARYANA STATE INDUSTRIAL & INFRASTRUCTURE
DEVELOPMENT CORPORATION LIMITED (HSIIDC)**

... Petitioner

Versus

**THE PERMANENT LOK ADALAT (PUBLIC UTILITY SERVICES),
FARIDABAD AND ANOTHER**

... Respondents

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

Present: Ms. Kushaldeep Kaur, Advocate, and
Mr. Ankur Mittal, Advocate, for the petitioner.

Mr. Pankaj Maini, Advocate, for respondent No.2.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the award dated 16.11.2015 passed by the Permanent Lok Adalat (Public Utility Services), Faridabad, on an application preferred by respondent No.2-applicant under Section 22 C of the Legal Services Authorities Act, 1987 (Annexure P-7).

At the time, when the notice of motion was issued in the present case, the following contention on behalf of the petitioner was noticed:-

“I have gone through the impugned order and the terms of allotment of the industrial plot to respondent No.2.

Counsel for the petitioner has not been able to satisfy this Court on merits that the impugned order is unreasonable regarding the refund of the entire amount deposited by respondent No.2.

There is no infirmity in the impugned order on merits but counsel for the petitioner has submitted that the order is without jurisdiction as the Permanent Lok Adalat, established under Section (1) of Section 22 (b) of the Legal Service Authority Act, can only exercise jurisdiction in context to the Public Utility Services, under sub section (b) of Section 22A which reads as follows: -

“22A. (b) “public utility service” means any—

(i) transport service for the carriage of passengers or goods by air, road or water; or

(ii) postal, telegraph or telephone service; or

(iii) supply of power, light or water to the public by any establishment; or

(iv) system of public conservancy or sanitation; or

(v) service in hospital or dispensary; or

(vi) insurance service, and includes any service which the Central Government or the State Government, as the case may be, in the public interest, by notification, declare to be a public utility service for the purposes of this Chapter.

The plea of want of jurisdiction with Permanent Lok Adalat, goes to the root of the matter.

Notice of motion to respondent No.2 for 18.4.2017.

Meanwhile, the amount will be deposited with the Executing Court but will not be disbursed to respondent no.2 till next date of hearing.”

It is very fairly pointed out by the counsel appearing on behalf of the petitioner-HSIIDC that the aforesaid contention was factually incorrect inasmuch as housing/real estate has been notified as a Public Utility Service under Section 22 A (B) vide notification dated 19.5.2009.

The facts of the present case reflect that the respondent No.2-applicant had filed an application under Section 22 C of the Legal Services Authorities Act, 1987 before the Permanent Lok Adalat (Public Utility Services), Faridabad seeking refund of the amount of Rs.1,33,766/- which had been wrongly deducted from the principal amount in respect of allotment of plot No.196, Sector 68, IMT, Faridabad. The respondent No.2-applicant pleaded that he had been allotted the above said plot by the petitioner-HSIIDC Vide Letter No.HSIIDC 2013/14353 dated 23.08.2013. Due to financial constraints the above said plot was surrendered by deposited respondent No.2-applicant and refund of the deposited amount of Rs.39,75,234/- was sought. The petitioner-Haryana State Infrastructure and Industrial Development Corporation, however, returned only a sum of Rs.38,33,968/- vide cheque No.936823 dated 04.07.2014 drawn on Dena Bank, Panchkula. The respondent No.2-applicant sought for the release of the balance was amount, however, the same was not done despite repeated requests, hence, the instant application was preferred before the Permanent Lok Adalat (Public Utility Services), Faridabad

The petitioner-HSIIDC entered appearance and filed its response wherein it averred that only the above said amount of it

Rs.38,33,968/- was refundable and that the same has been done by it in accordance with the applicable refund policy and that there is no deficiency on their part.

As the efforts for amicable resolution of the dispute did not yield any result, adjudication under Section 22 C (8) of the Legal Services Authorities Act, 1987 was undertaken by the Permanent Lok Adalat (Public Utility Services), Faridabad.

Upon consideration of the respective argument and the evidence adduced, the Permanent Lok Adalat (Public Utility Services), Faridabad, passed the impugned award in favour of the respondent No.2-applicant and directed the petitioner-HSIIDC to refund the balance amount of Rs.1,33,766/- along with interest @ 6% per annum from 04.07.2014 till realisation. The relevant extract of the said award reads thus:-

"7. There is no dispute with regard to the fact that the respondent had allotted plot No. 196, Sector-68, IMT Faridabad to the petitioner as per the allotment letter referred to hereinabove, copy of which has been placed on file. A bare perusal of the same would reveal that as per Clause-3 if the petitioner chose to surrender the plot for any reason whatsoever, within a period of two years from the date of allotment in that eventuality the principal amount received from him towards the tentative price was to be refunded to him without any interest. The respondent did not dispute the claim of the petitioner that he had chosen to surrender the plot within two years of the allotment. When that was so as per Clause 6.2 of chapter 6 of Estate Management Procedures (EMP) 2011 the respondent was required to refund the full principal amount paid by the petitioner without any interest within a period of thirty days of the receipt of the surrender request. In

this case in hand admittedly the petitioner had made payment of Rs. 39,75,234/- against this allotment. The respondent was therefore, liable to, in view of the surrender, refund the whole of the amount and it could not deduct any amount out of it on any ground.

8. Be that as it may. The respondent admitted that it had refunded only a sum of Rs. 38,33,968/-. Therefore, it was liable to refund the remaining amount of Rs. 1,33,766/- also within one month from the date of surrender. When it did not refund that amount on the pretext that amount pertained to the interest received from him for delayed payment received from him certainly it was deficiency in service on its part. Under no rule or under no term of the allotment contained in the allotment letter the respondent could deduct anything from the amount received from the petitioner once the petitioner had opted to surrender the plot within the stipulated period of two years and his request was accepted. In these premises we hold that it was certainly a deficiency in service on the part of the respondent not to refund of this amount 1,33,766/- when the other amount has been refunded. Despite requests when the respondent did not come forward to accede to the genuine and reasonable request of the petitioner made for refunding this balance amount certainly the respondent was liable to be burdened with the liability to pay interest on this amount so as to redeem the grievance of the petitioner. The ends of justice shall be amply met in case the respondent was directed to refund this amount along with interest at the rate of 6% per annum from 4.07.2014 on which date the remaining payment was refunded to the petitioner.

9. In the result the present petition is hereby accepted. An award for Rs. 1.33,766/- (one lakh thirty three thousand seven hundred sixty six only) is hereby passed in favour of the

petitioner against the respondent directing the respondent to pay this amount to the petitioner alongwith interest at the rate of 6% per annum from 4.07.2014 till the realization of this amount. No order as to costs. File be consigned to the records."

It is evident from a perusal of the aforesaid award that as per Clause 3 of the applicable policy, if an allottee chooses to surrender the plot for any reasons whatsoever within a period of 02 years from the date of allotment, the principal amount received from him towards the tentative price was required to be refunded without any interest. The petitioner-HSIIDC did not dispute the claim of the respondent No.2-applicant that he had chosen to surrender the plot within 02 years of the allotment. Hence, Clause 6.2 of Chapter VI of the Estate Management Procedure (EMP) 2011. mandated the petitioner-HSIIDC to refund the full principal amount without any interest within a period of 30 day of the receipt of request to surrender. The said clause is also a part of the letter of allotment.

Counsel for the petitioner-HSIIDC is not in a position to controvert the reliance placed by the Permanent Lok Adalat (Public Utility Services), on the provisions of the Estate Management Procedure (EMP) facts of the present case.

In the absence of any such evidence or contention that the plot was surrendered after two years or that the provisions were not applicable, the award passed by the Permanent Lok Adalat (Public Utility Services), Faridabad cannot be faulted. The award has been passed by considering Clause 3 of the letter of allotment as well as Clause 6.2 of the Estate Management Procedure (EMP) 2011. No illegality, infirmity, perversity,

impropriety or mis-appreciation of documents has been established on record. The impugned award thus cannot be held to be bad or improper.

Accordingly, award dated 16.11.2015 passed by the Permanent Lok Adalat (Public Utility Services), Faridabad, in Application No.562 dated 04.03.2015 titled as 'Joginder Vohra Prop. Jyoti Tools (India) FBD, Vs. HSIIDC, Faridabad, is upheld. The instant writ petition is dismissed.

The amount as awarded by the Permanent Lok Adalat (Public Utility Services), Faridabad, be released in favour of respondent No.2-applicant.

January 10, 2024

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(VINOD S. BHARDWAJ

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No