



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

206

CWP-4730-2017
Date of Decision: 13.11.2024

PATHANKOT IMPROVEMENT TRUST AND ANOTHER

... Petitioners

VERSUS

**THE PRESIDING OFFICER, PERMANENT LOK ADALAT
AND ANOTHER**

... Respondents

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

Present: Ms. Kavita Arora, Advocate
for the petitioners.

Mr. Sachin Ohri, Advocate
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the Award dated 13.10.2016 passed by respondent No.1- Permanent Lok Adalat (Public Utility Services), Gurdaspur, whereby the application preferred by respondent No.2-applicant has been partly allowed and the petitioner has been directed to charge interest @ 18% per annum only against the delayed installments and to refund the interest amount that has been charged in excess.

Briefly summarized, the facts of the present case are that the petitioner-Improvement Trust Pathankot had advertised 60 affordable MIG Flats measuring 1015 Sq. Feet under Self Financing Scheme at Jalandhar-Jammu Bye Pass Road, Pathankot at an estimated cost of Rs.20.75 lacs per flat in the year



2010. As per the terms and conditions of the brochure, only the competent Court at Pathankot had the jurisdiction to decide any dispute that may have arisen between the parties. The respondent No.2-applicant was successful in the draw and vide allotment letter dated 13.01.2011 (Annexure P-2), MIG Flat No.106-A, Block-A, First Floor was allotted to him in the Development Scheme of Timber Market Truck Stand (Jalandhar Jammu Bye Pass Road), Pathankot. As per condition No.2 of the said Allotment Letter, the allottee could opt for depositing the entire amount in lump sum, whereupon, after depositing 25% amount, the allottee was to get rebate of 5% on the remaining 75% amount; otherwise he had to deposit the remaining amount in five equal half-yearly installments alongwith interest @ 12% per annum; and in the event of default in payment of the installment, a penal interest @ 18% was to be charged. The said clause reads thus:-

"2. In case you are willing to deposit the total price of the MIG Flat under the self-financing scheme, then after depositing the 1/4th amount by you, you will be given rebate @ 5% from the remaining 75% amount to be deposited by you. In case you want to make the payment of the remaining amount as per 5 equal six monthly installments, then the same shall be paid by you with interest @ 12% per annum as per the schedule enclosed along with the allotment letter. Kindly note that due installments should be deposited by you either on or before the dates as mentioned in the schedule of payment. In the event of your failure to deposit the installments in time, a penal interest @ 18% shall be charged."

It is submitted that the respondent No.2-applicant paid the initial 1/4th amount vide receipt No.45/706 to the tune of Rs.4,26,338/- but thereafter, he did

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not pay the remaining amount, as payable, alongwith interest @ 12% per annum (as per terms and conditions of the letter of allotment) and was in default of payment of all the remaining installments. Eventually, he offered to clear the entire outstanding dues and the said offer was accepted and a sum of Rs.22,78,880/- was accepted by the petitioner on 03.08.2015 vide receipt No.14/776. Learned counsel for the petitioner further contends that after depositing the said amount and taking possession of the flat, an application under Section 22-C of the Legal Services Authorities Act, 1987 was filed by respondent No.2-applicant before the Permanent Lok Adalat (Public Utility Services), Gurdaspur praying that the petitioners-Improvement Trust be directed to refund the excess amount charged from him under the garb of compound interest @ 18% per annum, which comes to Rs.7,90,000/- approximately and also to hand over the physical possession as per the terms and conditions of the letter of allotment. A further prayer for payment of appropriate compensation/litigation expenses was also made.

The petitioner-Improvement Trust entered appearance before the Permanent Lok Adalat (Public Utility Services), Gurdaspur and raised a specific objection with respect to the territorial jurisdiction of the Permanent Lok Adalat (Public Utility Services) at Gurdaspur and also specifically stated in its evidence that the respondent No.2-applicant had himself approached the petitioners for clearing the entire outstanding dues. It was further averred that the request of respondent No.2-applicant for full and final settlement of all the installments of the flat was accepted and that respondent No.2-applicant is accordingly precluded

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from disputing the offer made by him in accordance with the terms and conditions of the letter of allotment.

Counsel for respondent No.2-applicant also defended the order passed by the Permanent Lok Adalat (Public Utility Services), Gurdaspur and submitted that an excess amount was claimed by the petitioner-Improvement Trust and that a direction had been rightly issued by the Permanent Lok Adalat (Public Utility Services), Gurdaspur to the petitioners-Improvement Trust to refund the entire excess amount. He further contends that the petitioners-Improvement Trust had initially demanded the interest @ 12% per annum and was charging an additional penal interest @ 18% per annum, thus compounding the interest to a total of 30% per annum and that the said anomaly/discrepancy was noticed by the Permanent Lok Adalat (Public Utility Services), Gurdaspur and that the Award has rightly been passed.

He could not, however, provide any specific satisfactory response to the objection as regards the territorial jurisdiction of the Permanent Lok Adalat (Public Utility Services) at Gurdaspur to adjudicate the said lis.

Neither any other argument has been raised nor has any judgment been cited by either of the parties.

I have heard the learned counsel for the respective parties and have gone through the documents and record available on case file with their able assistance.

Firstly, taking note of the objection with respect to the jurisdiction of the Permanent Lok Adalat (Public Utility Services), Gurdaspur to entertain the said application, it is undisputed that as per the terms and conditions of the



brochure, the jurisdiction, in the event of any dispute, had been restricted to the competent Court at Pathankot itself. It is also not in dispute that the project in question was being developed by the Improvement Trust, Pathankot and was within the territorial jurisdiction of Pathankot. Further, as per the address of respondent No.2-applicant, he was a resident of Ludhiana. Hence, under neither circumstances, this Court fails to find any reason as to how and under what circumstances, the Permanent Lok Adalat (Public Utility Services), Gurdaspur could have taken cognizance of the application preferred by respondent No.2-applicant as neither the subject matter of the property nor any of the litigating parties resided within the jurisdiction of Permanent Lok Adalat (Public Utility Services), Gurdaspur. There is also no evidence led by respondent No.2-applicant to the effect that no Permanent Lok Adalat had been constituted in Pathankot or that the Permanent Lok Adalat (Public Utility Services), Gurdaspur was exercising the jurisdiction over the territory of Pathankot as well. In the absence of any such finding having been recorded by the Permanent Lok Adalat (Public Utility Services), Gurdaspur despite a specific objection as regards jurisdiction having been raised renders the impugned Award void *ab-initio* as it suffers from want of authority/jurisdiction to entertain and adjudicate the said lis.

Since, this Court is allowing the writ petition on the issue of maintainability of proceedings before Permanent Lok Adalat (Public Utility Services), Gurdaspur, it would not be appropriate to comment on further merits of the case and to record any finding on other issues lest it causes a prejudice to the parties.

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For the foregoing reasons and noticing that there was no jurisdiction vested with the Permanent Lok Adalat (Public Utility Services), Gurdaspur for adjudicating the lis pertaining to the property which was primarily subject to the jurisdiction of Permanent Lok Adalat (Public Utility Services), Pathankot and the failure on the part of Permanent Lok Adalat (Public Utility Services), Gurdaspur in appreciating the said objection, I find that the impugned Award passed by the Permanent Lok Adalat (Public Utility Services), Gurdaspur dated 13.10.2016 in Application No.107 of 2016 titled as 'R.C. Bansal Versus Pathankot Improvement Trust' suffers from grave illegality and impropriety.

Accordingly, the present writ petition is allowed and the impugned Award dated 13.10.2016 passed by the Permanent Lok Adalat (Public Utility Services), Gurdaspur in Application No.107 of 2016 titled as 'R.C. Bansal Versus Pathankot Improvement Trust' is hereby set aside.

Parties are, however, at liberty to take recourse to an appropriate remedy before a Competent Forum for redressal of their grievances which shall be decided on its own merits without being influenced by the present judgment.

The period spent in pursuing present remedy shall be taken into consideration while computing limitation and benefit of the same be extended accordingly.

13.11.2024.
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No