IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:089414-DB

(108) **LPA No.1107 of 2022 (O&M)**

Vikramjeet Bakshi & others ......Appellant(s)

Versus

Elite Villas Limited and others ......Respondent(s)

LPA No.1155 of 2022 (O&M)

Vikramjeet Bakshi & others ......Appellant(s)

Versus

Piramal Capital & Housing Finance Limited and others ......Respondent(s)

Decided on: 17.07.2024

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Dhruv Gautam, Advocate for the appellant (s).
(Through Video Conferencing).

Mr. Sanjay Kaushal, Senior Advocate withi
Mr. Munish Kumar Garg Ms. Bhawna Thakur and
Mr. Panuj Goyal, Advocate for respondent Nos.1 & 2
in LPA-1107-2022 and for respondent No.1 in LPA-1155-2022.

Mr. Mayank Wadhwa, Advocate and
Ms. Muskan Gupta, Advocate for respondent No.3
in LPA-1107-2022 and for respondent No.2 in LPA-1155-2022.

Mr. Niren Sharma, Advocate for respondent No.4.
(in LPA-1107-2022).

Mr. Prashant Kumar, Advocate for respondent No.5
(in LPA-1107-2022).

Mr. R.S. Khosla, Senior Advocate with
Mr. Yogender Verma, Advocate for respondent No.11
(in LPA-1107-2022).

Mr.Ankur Mittal, Addl.A.G., Haryana
Mr.Saurabh Mago, DAG, Haryana.

G.S. Sandhawalia, J.(Oral)

Challenge in the present letters patent appeals is to the order of the learned Single Judge dated 26.09.2022 passed by the learned Single Judge in a bunch of cases lead case of which was **CWP No.5323 of 2022 'Piramal**

Capital & Housing Finance Limited Vs. State of Haryana and others'. The learned Single Judge as such had issued directions to make payment to the objectors who are the purchasers of apartments in accordance with the settlement offered in Court, which was referred to in the abovesaid order. It was further noticed that out of the total 280 buyers, the objectors were 12 in number and majority was in favour of revival of the project, who were stated to be with the builder. Resultantly, a finding was recorded that adamant attitude of a few cannot be permitted to stand in the way of larger good, leading to the quashing of the attachment order dated 15.09.2020 (Annexure P-1).

2. It is pertinent to mention that attachment order was issued in pursuance of an earlier order passed by National Consumer Disputes Rederssal Commission (NCDRC), whereby the allottes as such had been granted certain benefits, which they were seeking to execute. The attachment warrant had thus been issued under Section 72 of the Land Acquisition Act by the Collector, Gurugram (Annexure P-1) which was subject matter of challenge before the learned Single Judge. Out of the present six appellants in LPA No.1107 of 2022 only Rajesh Malik (appellant No.4) and Sudha Chak (appellant No.6) are stated to be contesting appellants, whereas in LPA No.1155 of 2022 out of 17 appellants, five appellants i.e. Shrikant Purohit (appellant No.6), Sanjay Kumar Chak (appellant No.10), Hari Bhushan Bedi (appellant No.12), Rajesh Malik (appellant No.14) and Saurav Sekhri (appellant No.15) are stated to be contesting appellants. It is further pertinent to mention that appellant Rajesh Malik has apparently filed two appeals against the same order. It is the categorical case of the respondents that the abovesaid persons have duly settled their claims by filing agreements in the

execution proceedings before the NCDRC. Similarly in the case of Rajesh Malik his execution application is still pending qua issue which is regarding payment of TDS and he has further initiated litigation before the Delhi High Court.

3. Mr. Gautam has tried to convince us that the abovesaid appellants are entitled for the interest element as it is his case that this Court had directed stoppage of interest on 01.03.2023 and, thus, they are adversely affected. Relevant part of the order passed by this Court on 01.03.2023 reads as under:-

> "Mr. Mayank Wadhawa, Advocate appearing for respondent No.3-Kashish Developers Ltd. on instructions from Mr. Yogendra Jain, authorized person of Kashish Developers, has placed on record a letter dated 26.02.2023 wherein, respondent No.3 has made an offer to the decree holders that their principal amount will be paid within 120 days of the disbursal of the first installment by respondent No.5-SWAMIH Investment Fund. The interest, as awarded by the NCDRC would be paid at the end of the following 11 months. It has been further stated that the said company has received the first disbursement on 05.02.2023 and resultantly, the bank details etc. and the loans on the flats have been asked for so that the amounts can be deposited in the relevant accounts. It is further pointed out that the principal amount itself is around Rs.18 crores and the interest element as such might surpass the same. It has also been pointed out that the flat owners would be liable to be refunded the principal amount ranging between Rs.1 crores to Rs.1.5 crores, depending upon the size of the flat.
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> The appellants have objected to the postponement of the interest element on the ground that it is against the terms of the orders of the NCDRC.
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> Mr. Prashant Kumar, Advocate appearing for respondent No.5-SWAMIH Investment Fund also confirms the fact that the part of the amount has been disbursed to the Elite Villas and Kashish Developers Ltd.
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> Though, we feel it is a valid objection as such as postponement of the interest may be contrary to the orders passed by the Commission, but at this point of time, to stop the element of interest

running for future, it would be most appropriate if the principal amount is received by the appellants. The interest of both the sides is protected to the extent that the interest element on the developers stops whereas at least the home owners also feel that they have got the fruits of litigation to some extent at this point of time after the long litigation which they have inured for and had to come and defend the same before this Court.

In such circumstances, respondent No.3-Kashish Developers Ltd. shall stand by its undertaking as offered to the home owners and shall deposit the principal amount with them as part disbursement within a period of one week. The needful be done either by RTGS or by way of bank drafts. It is, however, made clear that at this point of time, since the interest of both the sides is being balanced, we are not taking a final call on the delay regarding the issue of interest.

Adjourned to 22.05.2023.

Photocopy of the order be placed on the files of connected cases."

4. It has been brought to our notice that in pursuance of the said order, payments were made of the principal amount qua the contesting appellantsas such in the month of March, 2023 itself. Apparently, they entered into agreements also to settle the interest issue in the month of March itself with the respondents-buyers. This factum would be clear from the order passed in **Execution Application No.72 of 2019 in CC/2062/2017 'Pravin Bedi & another Vs. M/s Kashish Developers Ltd. and others'** decided on 30.04.2024. A perusal of the said order would go on to show that the Presiding Member of the NCDRC kept into consideration the order dated 01.03.2023 passed by this Court and noticed that the matter has been resolved with the deliberate consent of the Decree Holders and the settlement agreements were executed in the month of March, 2023 and, therefore, went on to dispose off the execution pertaining to the present appellants who are objectors herein. Relevant part of the said order whereby the principal amount including the interest element was also mentioned reads as under:_

"5.The Judgment Debtor has since filed IAs/4996-4999/2024, seeking to introduce certain Handing Over Letters into the records and requesting for disposal of the Execution Applications based on the settlements reached between the parties. According to the Applications, the matter has been resolved with the deliberate consent of the Decree Holders, and the Settlement Agreements were executed in the month of March 2023, with only the amount of interest remaining as per the directions of the High Court of Punjab & Haryana. Hence, the current Execution Application should be resolved accordingly.

6. For the sake of convenience, the particulars of the Decree Holders, their Declarations andHanding over Letters are tabulated as under:-

Name of Decree Holders and Case	**Unit Allotted**	**Date of Declaration**	**Date of Handing Over of receipt of principal amount**	**Amount of Principal**	**Amount of interest remaining**
Pravin Bedi and Hari Bhushan Bedi (EA/72/2019)	B4-8B, Tower B4	06.03.2023	08.03.2024	Rs.44,28,842/-	Rs.80,26,622/-
Sudha Chak and Sanjay Kumar Chak (EA/76/2019)	B2-14A, Tower B2	15.03.2023	09.03.2024	Rs.63,95,227/- and Rs.27,01,156/-	Rs.86,18,272/-
Shri Kant Purohit (EA/2022/2019)	B2-10A, Tower B2	11.03.2023	09.03.2024	Rs,38,88,582/- and Rs.50,52,825/-	Rs.85,01,115/-
Saurav Sekhri (EA/230/2019)	B1-2C, Tower B1	17.03.2023	09.03.2024	Rs.20,86,205/- and Rs.56,31,512/-	Rs.73,47,358/-

7.The relevant Clause of the Settlement Agreements states that the Decree Holders will withdraw all the legal proceedings from this Commission as well as any other authority. The said Clause in the Agreement/Declaration dated 6.3.2023 signed by the Decree Holders in EA No. 72 of 2019- Pravin Bedi and Hari Bhushan Bedi on the one hand, and the Judgment Debtor on the other is set out as below-

"4. No further amount shall remain outstanding from M/s Kashish Developers Limited upon receipt of Interest of Rs. 80,26,622/-by me. I undertake to withdraw all legal proceedings whatsoever, more

> specifically NCDRC, EoW any other case in respect of the above mentioned Unit upon receipt of Interest and complete all other actions as may be required in connection therewith. I agree and confirm that any legal proceeding filed by me in respect of the above Unit will become infructuous on receipt of the Interest amount of Rs. 80,26,622/-"
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> 8. The aforesaid Clause No. 4 in the Agreement between the Decre Holders and the Judgment Debtor has been identically incorporated as Clause No. 5 in rest of the three matters except for specifying the actual outstanding interest in each matter.
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> 9. From the copies of the Handing Over Letters dated 9.2.2024, which have been similarly filed as Annexure-A to each of the IA Nos. 4997 to 4999 of 2024 in EA Nos. 76, 202 and 230of 2019, it is clear that the balance interest amounts have been finally delivered to the respective Decree Holders by the Judgment Debtor alongwith accrued interest thereupon interms of their original Agreements dated 11.3.2023, 15.3.2023 and 17.3.2023
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> 10. Consequently, no further claims of the Decree Holders now survive
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> 11. The instant applications therefore stand allowed and Execution Cases are accordingly disposed off as on full satisfaction."

5. Similarly, in **Execution Application No.84 of 2019 in CC/2089/2017 'Rajesh Malik Vs. M/s Kashish Developers Ltd. and others'** separate order was passed on 30.04.2024. We are informed that matter is now further listed for 18.07.2024 and also an ancillary litigation has been initiated before the Delhi High Court.

6. A perusal of the affidavit filed in execution application would go on to show that the present objectors themselves as such or through their authorized representatives had agreed to settle the dispute with wilful consent as full and final settlement had been arrived at. The agreements as such were appended alongwith the affidavit of the Judgment Debtors. The principal amount and interest amounts have been duly quantified in the said settlements.

The said agreements do not leave any window for the Judgment Debtors to contest for balance payment which is now being sought from 04.03.2023 to the date when the interest amounts were received in March, 2024. The interest amounts were paid by way of demand drafts. Apparently, the original documents of the apartments as noticed in the order passed in execution were handed over also in March, 2024.

7. In such circumstances, the argument which is now sought to be raised that the appellants/objectors are further liable to receive interest for a period of one year is not liable to be accepted, as settlement was arrived at between the parties with open eyes. In the agreement, under the said clause it has been specifically mentioned that it is full and final settlement and they will not challenge it against the company before any Court of Law. Once having entered into agreement and received the interest element, it does not lie in the mouth of the said appellants/objectors to still contest having resolved the issue a year back. Resultantly, the present letters patent appeals are disposed of as having been rendered infructuous, in view of the terms of the settlement already arrived *inter se* the parties.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

17.07.2024
Naveen

Whether speaking/reasoned : Yes
Whether Reportable : No