



CWP-28168-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-28168-2024Date of decision: 24.10.2024

Harshdeep Singh Nat

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Rohit Singla, Advocate,
for the petitioner.

Mr. Vipin Pal Yadav, Additional Advocate General, Punjab,
Ms. Aashhika Jain, Deputy Commissioner, Mohali.

ARUN PALLI, J. (Oral)

On October 21, 2024, this Court had passed the following
order:-

***‘Petitioner (Harshdeep Singh Nat) has prayed for
the following substantive relief:***

***“Civil Writ Petition under Articles 226/227 of
the Constitution of India for issuance of Writ
in the nature of Mandamus directing the
official respondents to execute the Recovery
Certificate (Annexure P-3) dated 12.01.2024
bearing Memo No.RERA/PB/Legal/2023/484
issued by the Ld. Real Estate Regulatory
Authority, Punjab vide its order dated
20.12.2023 for recovery of Rs.31,45,561/- from
the Respondents No.3 and 4.***

AND

***Further praying for direction to the official
respondents to execute the aforesaid Recovery***



Certificate in a time bound manner and submit the report accordingly.”

Learned counsel for the petitioner submits that a complaint under Section 31 of the Real Estate (Regulation and Development) Act, 2016 (2016 Act), moved by the petitioner and his wife (Rosy Nat), was accepted by the Real Estate Regulatory Authority, Punjab. And, vide order dated 28.07.2021, the respondents were held liable to pay interest @ 9.30% to the complainants with effect from 29.07.2020 till the time possession is offered to them after obtaining Completion Certificate: The only relief available at this stage therefore is payment of interest for the period of delay. As per the provisions of the Act and Rules it is held that respondents are liable to pay interest at the rate of 9.30% (today's rate 7.30% per annum plus 2% as per State of India's Highest Marginal Cost of Lending Rate) to the complainants with effect from 29.07.2020 till the time possession is duly offered to the complainants after obtaining the Completion Certificate.”

It is submitted that the petitioners, thereafter, moved the Executing Court and as the order dated 28.07.2021 was not assailed any further, vide order dated 20.12.2023, the Executing Court directed the respondents to pay Rs.31,45,561/-. And, consequently, directions were issued to the District Collector, S.A.S. Nagar, Mohali, Punjab, to issue the recovery certificate for the said amount. Further, he submits that it was also observed that if the order dated 28.07.2021 is not complied with by the respondents within a period of 60 days of the receipt of the said order, the Registry was directed to initiate proceedings under Section 63 of the 2016 Act, against the respondents. Subsequently, vide communication dated 12.01.2024, the authority required the Deputy Commissioner-cum-District Collector, S.A.S. Nagar, Mohali, to ensure the recovery of



the decretal amount, and the same be recovered as arrears of land revenue from the assets of judgement debtors/respondents. However, to date, the order dated 28.07.2021, passed by the authority has not been executed. So much so, the representation dated 19.06.2024 (P-4), the respondent No.2 was served with, has failed to evoke any response. Thus, this petition.

Previously, on 19.10.2024, the matter was adjourned for today to enable the learned State counsel to seek instructions and to ascertain as to why the order dated 28.07.2021, having been passed over three years back, has not been executed, but he expresses his inability to clarify the position, as indicated above, and rather prays for further time.

In the given circumstances, we hardly find any justification in the request made by the learned State counsel and, therefore, we are choiceless but to request the Deputy Commissioner-cum-District Collector, S.A.S. Nagar, Mohali, Punjab, to remain present in Court on the adjourned date to enable us to proceed further in the matter.

Adjourned to 24.10.2024.'

Accordingly, Ms. Aashika Jain, Deputy Commissioner-cum-District Collector, SAS Nagar (Mohali), is present in Court. We are informed that pursuant to the orders passed by the Executing Court, as also the recovery certificate, property(s) of the respondent/judgment-debtors has since been attached. And after following due process of law, the same would be put to auction to realize the decretal amount.

At this stage, Mr. Arjun Pratap Atma Ram, Advocate, has caused appearance on behalf of respondents No.3 and 4. He vehemently disputes the case that is sought to be set out in the petition, and submits that, in fact, the concerns/grievances being made by the petitioner are totally misconceived. He submits that post the decree passed by the Real



Estate Regulatory Authority, Punjab, the petitioner approached the Punjab State Consumer Dispute Redressal Commission, Chandigarh, and during the pendency of the said proceedings, a possibility of an amicable resolution of the dispute was sought to be explored. Which is why, the decretal amount was not deposited. Thus, in the given circumstances, attachment of the entire project and the properties related thereto is apparently erroneous, as it would gravely impair the rights/interest of respondents No.3 and 4. He, as always, fairly submits that the private respondents shall deposit the decretal amount, without prejudice to their rights/interest, with the Executing Court. And, a necessary application to recall/vacate the orders(s) of attachment, as indicated above, shall be moved within a period of two weeks from today.

That being so, learned counsel for the petitioner submits that, for the present, nothing substantive survives in the petition and the same be disposed of, as having been rendered infructuous

In the wake of the above and in terms of the statements made by learned counsel for the parties, the petition is accordingly disposed of. However, in the event, the decretal amount is not deposited with the Executing Court within the period indicated above, the petitioner shall be at liberty to move an application in this petition itself, for its restoration and appropriate orders.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

24.10.2024
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No