

2024:PHHC:151636-DB



CWP-31156-2024

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

CWP-31156-2024

Date of Decision: 20.11.2024

**DEVENDRA KUMAR GOEL AND ANOTHERPETITIONERS
VERSUS
M/S PEARLS INFRASTRUCTURE PROJECTS LTD AND OTHERS
....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Arun Kumar Nanda, Advocate for the petitioners.

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioners have challenged the orders dated 14.06.2024 (Annexure P-2) and 23.08.2024 (Annexure P-1) of the National Consumer Dispute Redressal Commission (for short 'National Commission') whereby their first appeal against the order of State Commission Consumer Disputes Redressal (for short 'State Commission') has been dismissed and further the application seeking review of the first appeal order has also been dismissed.

2. Learned counsel for the petitioners submits the appeal has been erroneously dismissed on the ground that the relief which they are now seeking in appeal was not sought by them while preferring consumer complaint before the State Commission. He has drawn our attention to the order of the State Commission, wherein the reference has been made to the directions which were sought by the complainants therein (petitioners) and one of the directions sought was that opposite parties No.1 and 2 be directed to deliver possession of the developed plot in question.



3. Heard.

4. The petitioners were stated to have applied for allotment of one plot in project of the respondents namely 'Mohali Township' Sector 100 in February, 2011 by depositing 15% of the amount as earnest money. Respondent No.2 had entered into a Project Management Agreement with respondent No.1 on 11.07.2006. The petitioners were stated to have paid a sum of Rs.16,95,000/- till 30.09.2016 and was required to pay further a sum of Rs.23,307/- as interest besides the principal amount of Rs.49,00,000/-. The possession of the plot was to be delivered within three years from the date of agreement i.e. by 21.05.2014. However, the respondents had failed to carry out the development work at the site and the project was being investigated by the 'Securities and Exchange Board of India' (SEBI). In terms of the directions of the Supreme Court, a committee was constituted under the Chairmanship of former Chief Justice of India, Sh. R.M. Lodha and the committee has been conducting the sale of the properties.

5. The State Commission had allowed the complaint vide order dated 26.09.2017 and directed respondents No.1 and 2 to refund the amount of Rs.65,69,755/- along with interest @ 12% per annum from the date of payment till its realisation. The compensation of Rs.1,00,000/- had also been awarded besides Rs.20,000/- as litigation expenses.

6. The petitioners are stated to have taken steps to execute the order but there was a difficulty in executing the same as the project appears to have run into rough weather and the aforementioned Lodha Committee had been conducting the sale of the properties.



7. The petitioners thereafter turned around and filed an appeal before the National Commission after a delay of 1515 days. The National Commission has dismissed the appeal on account of delay and has also noticed that earlier the petitioners appeared to be satisfied with the order of the State Commission and were seeking its execution and only on realising the difficulty in execution, have preferred an appeal. The relevant paragraph of the impugned order dated 14.06.2024 (Annexure P-2) is reproduced hereunder:-

“7. In the present case, the main reason for filing the Appeal before this Commission is that the Appellant has not been successful in getting the order of the State Commission executed, which was otherwise in his favour, as his complaint was allowed by the State Commission. In the Appeal, the Appellant now wants modifications to the order of the State Commission and is seeking a different relief, which was not even part of his original complaint before the State Commission. Per se he is not aggrieved with the order of the State Commission as it was in his favour. It is only on account of the said order not getting executed due to various reasons that he wants a different relief now. Hence, he has approached this Commission in the present Appeal with a delay of 1515 days. This, in our considered view, is not a valid reason for condonation of delay in filing Appeal before this Commission. Even if the delay is condoned and his Appeal is considered on merits, we are of the considered view that the said Appeal is not maintainable as whatever relief he sought in his Complaint before the State Commission, was allowed by the State Commission vide order dated 26.09.2017. Reliefs, which he seeks now in the Appeal, by way of modification to the State Commission's order, were not even the part of his original complaint. Hence, such prayers cannot be allowed in Appeal. Hence, even on merits, the Appeal in question is not maintainable.”



8. We are of the considered opinion that the order passed by the National Commission is in accordance with law as there was no justifiable ground leave aside sufficient cause to condone the delay of almost 05 years in preferring the appeal. It appears that the principal prayer before the State Commission was that the petitioners be refunded the amount along with interest and the prayer for delivery of the plot was an ancillary one. As the project had run into rough weather and was directed to be monitored by the Lodha Committee, it would not be possible to accept alternative prayer of delivery of possession of the developed plot.

9. We therefore, do not find any illegality in the orders of the National Commission which would warrant interference by this Court while exercising its writ jurisdiction. Consequently, the petition stands dismissed. However, it would be open to the petitioners to make a representation before the Lodha Committee, in the event the same is still discharging its function.

(ANUPINDER SINGH GREWAL)
JUDGE

(LAPITA BANERJI)
JUDGE

20.11.2024

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