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

FAO-CARB-55-2019 (O&M)

Date of Decision: 12th February, 2026

EMAAR MGF LAND LTD.

.....Appellant(s)

V/s

MR.ABHSHEK KOHLI

.....Respondent(s)

CORAM: **HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA**
 HON'BLE MR. JUSTICE ROHIT KAPOOR

Present Mr. Ashim Aggarwal, Advocate for the appellant.

 Mr. Sukhandeep Singh, Advocate for the respondent.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This Appeal, filed under Section 27 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as “the Act of 1996”), seeks to assail Award dated 28.03.2016, passed by the Arbitrator against which objections, filed by the appellant under Section 34 of the Act of 1996, have also been rejected vide order dated 27.08.2019 passed by the Addl. District Judge, S.A.S. Nagar, Mohali.

2. Admitted facts of the case are that a Plot Buyers Agreement (for short “the Agreement”) was executed by the appellant in favour of the respondent on 04.07.2007, allotting Plot No. 449, Pinewood Park, Sector 108, Mohali. The sale price was mentioned in Clause 2 of the Agreement. Clause 8 of the said Agreement contained a promise of the appellant to deliver possession of the allotted land to the respondent after two years but before expiry of three years. Clause 8, since has relevance in the present controversy, the same is reproduced hereinafter:-

“8. *Subject to Force Majeure conditions and reasons beyond the control of the Company, the Company shall endeavor to deliver possession of the Plot to the Allottee within a period of 2 (Two) years from the date of execution of this Agreement, but not later than 3 (Three) years. In the event that the possession of the Plot is likely to be delayed for reason of any force majeure event or any other reason beyond the control of the Company including government strike or due to civil commotion or by reason of war or enemy action or earthquake or any act of God or if non delivery is as a result of any act, notice, order, rule or notification of the Govt. and any other public or Competent Authority or for any reason beyond the control of the Company, then in any of the aforesaid events, the Company shall upon notice claiming force majeure to the Allottee be entitled to such extension of time till the force majeure event persists or the reason beyond the control of the Company exists. In the event that the Company fails to deliver possession of the Plot without existence of any force majeure event or reason beyond the control of the Company within a maximum period of 3 (Three) years from the date of execution of this Agreement, the Company shall be liable to pay to the Allottee, a penalty of the sum of Rs. 50/- (Rupees Fifty only) per sq. yds per month for such period of delay beyond 3(Three) years from the date of execution of this Agreement.”*

3. The period of three years, within which the possession was to be delivered, expired in July, 2010. The possession was not delivered to the respondent as was promised in the said Agreement. It appears that as the development of Sector 108 was not complete, the appellant, on 19.04.2011, changed the allotment of earlier allotted Plot to Plot No. 207, Augusta Greens, Sector 109, Mohali Hills and an addendum to the initial Plot Buyers Agreement dated 04.07.2007 was also executed. An undertaking by way of

an affidavit was also submitted on 26.04.2011 which though referred to date when the possession was offered, but the same was found blank.

4. The respondent ultimately issued a legal notice dated 23.03.2013, stating that though the amount towards the cost of the plot has been deposited by him, but the area has not been developed and possession of the plot has not be delivered as such, the deposited amount be refunded along with 18% interest. Correspondence ensued between the parties and ultimately, the matter was referred to the Arbitrator as per Clause 39 of the Plot Buyers Agreement.

5. The Arbitrator has considered the claim of the parties and has returned a finding that Sectors 108 and 109 were not developed, even until the year 2015. For such purposes, the Arbitrator has relied upon order dated 30.03.2015 passed by the National Consumer Dispute Redressal Commission, New Delhi (hereinafter referred to as “the Commission”) in **Emaar MGF Land Ltd. and Others Vs. Amit Puri.**; *First Appeal No. 250 of 2014*. The Arbitrator also rejected the plea of the appellant with regard to payment of penalty @ Rs.50/- per. sq. yards per month, on the ground that such condition in Clause 8 was to be pressed only when there was a delay in delivery of possession and that such clause would not be attracted where the contract itself has not been complied with and refund was sought.

6. The Arbitrator has formulated various issues for consideration in his Award. Issue No.2 was with regard to entitlement of respondent to receive *pendente lite* and future interest on the claimed amount, and if so, at what rate such interest ought to be awarded.

7. On Issue No.2, the Arbitrator has allowed interest @ 12%, however, in the operative portion of award, the future interest @ 18% has been allowed. The objections filed by the appellant to the Arbitrator's award have been rejected by the Commercial Court on 27.08.2019. Thus aggrieved, the appellant is before this Court.

8. Learned counsel for the appellant submits that the finding with regard to Sectors 108 and 109 not being developed is based on no evidence. The evidence adduced by the appellant to demonstrate that the Sectors were developed has not been considered. It is also submitted that the order passed by the Commission was in respect of Sector 108 and could not have been relied upon in the present case. Learned counsel further submits that by virtue of Clause 8, the only benefit which could be granted to the respondent was to award compensation @ Rs.50/- per sq. yard per month but the Arbitrator has erred in not construing Clause 8 as per the language implied in the Agreement. It is lastly urged that once on Issue No. 2, *pendente-lite* and future interest @ 12% was allowed, the Arbitrator could not have awarded 18% towards future interest.

9. The submissions advanced on behalf of the appellant are opposed by the learned counsel for the respondent, who submits that the award of the Arbitrator is based upon correct appreciation of facts and law and that the discretion exercised by the Arbitrator neither suffers from any manifest illegality or perversity, nor it could be said to be beyond the terms of the Agreement executed between the parties. It is, therefore, submitted

that no interference is warranted by this Court in exercise of its jurisdiction under Section 37 of the Act of 1996.

10. Having heard learned counsel for the parties, we find that the finding of the Arbitrator that Sector 109 was not developed is based upon the findings returned by the Commission in an Appeal filed by the appellant itself. The judgment of the Commission has been perused by us. In Para 9, the Commission has held as under:-

“9. Bearing in mind the aforesaid broad principles for determining the question of award of compensation and interest to the Complainant, we may now advert to the facts at hand. In the Instant case, indubitably, the Complainant had deposited full consideration amounting to Rs.40,05,621 with the Appellants from time-to-time towards the cost of the plot, in terms of Plot Buyer's Agreement dated 4.7.2007, in the hope that he will get a plot either in Sector 109, as initially booked or in Sector 108, as an alternate allotment on or before 4.7.2010, but it was not to be. It is not in dispute that even Sector 108 was not developed when the Complainant filed the complaint in the year 2013. XXXX XXXXX XXX XXX XXX XXXX XXX XX”

11. The order passed by the Commission was in an Appeal filed by the appellant himself. We cannot take any exception to the findings of the Arbitrator with regard to the non-development of Sector 109 based upon the findings returned by the competent forum. Challenge to this part of the Arbitrator's award, therefore, must fail.

12. We also do not find any substance in the appellant's contention that the only relief which could be granted to the respondent was to award compensation @ Rs.50/- per sq. yard per month inasmuch as Clause 8, if

read in its entirety, would indicate that it is applicable where there was a delay in delivery of possession. However, the project itself has not been developed, and a prayer for refund was made, therefore, the relief cannot be restricted to Clause 8 of the Agreement. The interpretation assigned by the Arbitrator to Clause 8 is clearly a permissible view and this Court in exercise of its jurisdiction under Section 37 of the Act of 1996 would not be justified in re-appreciating such findings by arrogating to itself the powers of the routine appellate court.

13. In SEPCO Electric Power Construction Corporation Vs. GMR Kamalanga Energy Ltd. ; 2025 INSC 1171, the Hon’ble Supreme Court has held as under:-

“XXXXXXXX XXXXX XXXXX XXXXX

64. Firstly, the Court upheld the power of a court as granted by Section 34 Sub-Section 2 Clause (a) Sub-Clause (iv) of the 1996 Act to sever the “invalid” sections of an award from the “valid” ones. The concept of kompetenz-kompetenz⁵⁰ is consistent with the aforesaid idea as iterated and discussed in Part II of the decision. While discussing the concept of power of a court to sever an award, it clarified that it is not always available, particularly in situations wherein the legitimate and the invalid portions of an award are inextricably intertwined, rendering partial annulment infeasible in such situations.

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“70. A perusal of the aforesaid elaborates that an appeal lies against an order of either setting aside of an arbitral award or refusal thereof under Section 34 of the 1996 Act under Section 37 Sub-Section 1 Clause (c) of the 1996 Act. The provision, as also interpreted by decisions of courts in India, demonstrates

that the scope under Section 37 is inherently limited or rather, narrower, and is governed by the mandate or parameters or grounds under Section 34 Sub Section 2 of the 1996 Act.

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105. *When a party is unable to analyse, comment or argue on a contention raised by the other party, it will certainly be deemed as a breach of natural justice and thereby, also a violation of the most fundamental notions of justice. Henceforth, the arbitral award is required to be set aside by the courts under Section 18 and Section 34 Sub Section 2 Clause (a) Sub-Clause (iii) of the 1996 Act. Such an observation derives its weight from the examination by this Court in Ssangyong Engineering (supra), especially in its paragraphs 34, 36, 37 and 46. Even the decision in Associate Builders (supra), while dealing with the head of “fundamental policy of Indian law” recognizes audi alteram partem as a fundamental juristic principle recognized under Section 18 and Section 34 Sub-Section 2 Clause (a) Sub-Clause (iii) of the 1996 Act.*

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14. The only argument of the appellant which appeals to us is with regard to the grant of interest. The Arbitrator had framed various Issues in respect of the *lis* between the parties for determination. Issue No.2 related to *pendente lite* and future interest which is reproduced hereinafter:-

“(2) Whether the claimant is entitled to pedente-lite and future interest on the claim amount, and if so at what rate?”

15. The findings of the Arbitrator on Issue No.2 is as under:-

“On consideration of submissions of the learned counsel for the parties, I am of the considered view that ends of justice would meet if claimant is

allowed interest @ 12% per annum on the amount deposited by the claimant with the respondent from respective dates of deposits. Thus issue Nos. 1, 2 and 3 are decided against the respondent and in favour of the claimant.”

16. However, in the operative portion of the Award, while awarding 12% interest on the principal amount, the Arbitrator has also awarded 18% per annum towards future interest. To this extent, the award of the Arbitrator suffers from apparent perversity inasmuch as the relief granted is contrary to the findings returned by the Arbitrator himself. This aspect of the matter has also raised the attention of the Commercial Court.

17. One of the grounds on which an Award of the Arbitrator can be interfered with is in the case of apparent perversity. In the present instance, where the relief allowed on the issue as per the award, is grant of 12% interest, it was not open for the Arbitrator to have awarded 18% interest which was contrary to his own findings returned in the Award. To this extent, we find substance in the appellant’s argument and accordingly, the Award as well as the judgment of the Commercial Court, are modified to the extent that respondent would be entitled to future interest @ 12% per annum.

18. It is made clear that the grant of relief by the Arbitrator shall only be in terms of the adjudication contained in the Award and cannot be beyond it.

19. The Appeal stands **disposed of** in the aforesaid terms.

20. All pending applications in this case, if any, are disposed of accordingly.

[ASHWANI KUMAR MISHRA]
JUDGE

[ROHIT KAPOOR]
JUDGE

February 12, 2026
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<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>