

Sanjiv Mehrotra Vs. BPTP Ltd.
Appeal No.32 of 2018

Present: Shri Nitin Kant Setia, Advocate, Id. Counsel for the appellant.
Shri Hemant Saini, Advocate, Id. Counsel for the respondent.

Learned counsel for the respondent requested a date. Vide our order dated 10.10.2019, a proposal was given to hand over possession of the unit to the appellant on deposit of the part amount of Rs.2,00,000/- as interim measure. It has been brought to our notice that the respondent/promoter is not honouring this proposal. They have added the Administrative Charges, GST and Maintenance Charges from November, 2018 whereas the proposal given on the last date was to hand over the possession as an interim measure on receipt of Rs.2,00,000/- in lump sum subject to the decision of this appeal.

Shri Hemant Saini, learned counsel for the respondent stated that a shortest possible adjournment may be given. He will call Shri Rohit Mohan, the Vice-President of the respondent/Company alongwith Senior Officer dealing with this project to appraise this Tribunal with respect to the mode of settlement. Shri Saini has stated that he wants that the litigation between the parties shall come to an end amicably.

This appeal has chequered history. The respondent had appeared on 19.11.2018 and since then various adjournments have been granted for arguments. At one point of time even a spade work was done on 13.03.2019 to determine the matters in issue in this appeal. Thereafter, again the matter remained adjourned for one reason or the other mostly due to requests made by the respondent.

Ultimately, on 10.10.2019 Shri Hemant Saini, learned counsel for the respondent made the following statement: -

“That I will certainly argue the present appeal on merit on 30.10.2019 positively whatever the proceedings may be before the Hon’ble High Court in the appeal filed by the respondent/promoter against the dismissal of the cross appeal due to non-deposit of the amount under proviso to Section 43(5) of the Real Estate (Regulation and Development) Act, 2016 and I will not seek any further adjournment.”

Even in the last order we have mentioned that the learned counsel for the respondent shall remain bound by his statement dated 10.10.2019. Learned counsel for the respondent has pointed out that the appeal against the order dismissing the cross appeal by this Tribunal is pending before the Hon’ble High Court but fairly conceded that no stay order qua this appeal has been passed by the Hon’ble High Court. Shri Saini has even categorially stated in his statement dated 10.10.2019 that he will argue the case irrespective of the pendency of the appeal before the Hon’ble High Court. Mere pendency of the appeal before the Hon’ble High Court dismissing the cross appeal by this Tribunal is no ground for adjournment of the present appeal.

It is seen that the respondent is not coming forward for the settlement proposed by this Tribunal. This Tribunal has made efforts twice for amicable settlement. The first effort made was rendered fruitless due to conduct of the respondent. This time also they have complicated the matter by adding Administrative Charges, GST and Maintenance Charges etc.

However, in view of the request made by Shri Hemant Saini that he is going to produce the Vice-President of the

respondent/Company alongwith Senior Officer to sort out the matter amicably, the case is adjourned, however, subject to payment of Rs.10,000/- as costs.

Now to come up on 21.11.2019 for payment of cost, appearance of the Vice-President/Senior Officer of the Company for amicable settlement, if any, failing which arguments shall be heard on that date. No adjournment shall be granted due to any reason.

Copy of this order be supplied to Shri Hemant Saini, learned counsel for the respondent for communication to the respondent and compliance.

Justice Darshan Singh (Retd.)
Chairman,
Haryana Real Estate Appellate Tribunal,
Chandigarh
15.11.2019

Anil Kumar Gupta
Member (Technical)
15.11.2019