

State of Haryana
Vs.
M/s Piyush Heights Residents Tower J & K
Welfare Association & Ors.
Appeal No. 533 of 2022

Present: Mr. Mohindar Pal, ADA,
for the appellant.

None for respondent no. 1.

Respondent no. 2 already deleted.

Mr. Kunal Dawar, Advocate, along with
Ms. Tanika Goyal, Advocate,
Mr. Mayank Aggarwal, Advocate,
for respondent no. 3.

There is written request for adjournment on behalf
of counsel for respondent no.1.

Prayer is not opposed by counsel for the parties.

At this stage, Mr. Mohinder Pal, ADA has pointed
out that State is aggrieved by directions contained in paras 8 &
9 of the impugned order. Same reads as under:

*“8. in view of the above, the Authority directs the
President of the Association to submit their application for
grant of occupation certificate to the Director, Town and
Country Planning Department accompanied with copy of
this order. The Authority would expect the department to
deal with this application as expeditiously as possible and
grant Occupation Certificate to the Association not later
than 30 days from passing of this order.*

*9. After obtaining the Occupation Certificate the
association shall fix a date for physical handing over of the
apartments to the allottees. A representative of the DTP,
Faridabad and a representative of the Authority will also
be present at the site to oversee the process.”*

As per him, the Authority has no jurisdiction at all
to direct the Director, Town and Country Planning, Haryana
(DTCP) to make any observation in nature of a direction to grant
Occupation Certificate (OC) or to expedite the same. Besides,
observation in para 8 are absolutely against law as Occupation

Certificate can be granted only to licence holders whereas in para 8 above, the President of the Association has been directed to submit application for grant of Occupation Certificate.

Prima facie, this Bench finds substance in the plea taken by the ADA. It feels that grant/refusal of Occupation Certificate is purely within the domain of DTCP and he should be at liberty to consider the issue as per norms, bye-laws and established procedure.

List on 09.05.2024 to enable the counsel to address on the aforesaid issue.

Copy of this order be forwarded to Director, Town and Country Planning, Haryana forthwith.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

05.03.2024
Rajni