

Dhoot Infrastructure Projects Ltd.
Vs.
Anuj Mehra and others
CM No. 1059 to 1061 & 1265, 1266 of 2024
In Appeal No.553 of 2024

Present: Mr. Kunal Dawar, Advocate along with
Mr. Mayank Aggarwal, Advocate,
for the appellant.

Ms. Sapna Randhawa, Advocate,
for the respondents.

Present appeal is directed against order dated 02.05.2024 passed by the Adjudicating Officer, HRERA Gurugram whereby show cause notice was issued to Directors of the JD (appellant herein) as to why they be not committed to civil prison for not handing over possession of the subject unit despite orders passed. Same was followed by order dated 14.08.2024, whereby it was directed as follows:-

“On previous date i.e 02.05.2024 on an application filed by DH, show cause notices were issued to directors of JD as why same be not committed to civil prison for not handing over possession of subject unit despite order under execution. Reply was called till today. None of directors filed reply, despite service of notice upon Sh. Piyush Dhoot and Sh. Pawan Kumar Dhoot stated to be directors of JD.

Learned counsel for JD insists to decide application already filed by him, with a prayer to recall order dated 20.03.2024.

It is submitted by learned counsel for applicant/JD that said order was passed on the back of him. He could not appear on that day as he was busy in a case before Allahabad High Court, Bench at Lucknow and proxy counsel appeared on that day.

The date was given after consulting learned counsels for both of parties. No intimation was given by learned counsel for applicant/JD that he will be unable to appear on that date i.e. 20.03.2024. Even otherwise, none appeared on behalf of JD even any proxy counsel, as claimed by learned counsel. Considering all this, I

find no reason to recall said order. The application is thus dismissed.

It is worth mentioning that through order under execution, apart from directing respondent/JD to pay delay possession charges as per proviso to Section 18(1) of the Act of 2016, the respondent/JD was directed to offer of possession of allotted unit within 30 days after obtaining OC from the competent authority.

Reply of application filed by DH under Section 40 of the Act of 2016 and Rule 27 of Rules 2017, read with Order XXI Rule 378 CPC has been filed by JD.

Heard. It is contended by learned counsel for JD that said application has become infructuous on account of termination of allotment of the unit in favour of DH on 04.03.2024. In view of order dated 05.02.2024, DH was required to make payment within four weeks, but no such payment was made by the latter and hence unit allotted to DH has been cancelled.

True, on 05.02.2024, it was agreed between both of parties that as on 15.01.2024, allottee/DH was liable to pay a total sum of Rs.23,46,970/- i.e. amount of installments plus interest at rate 10% per annum after adjustment of amount of DPC. Learned counsel for DH submitted that his client was ready to make this payment, within four weeks, which was allowed.

On 05.03.2024, it was submitted by learned counsel representing DH that said amount could not be paid, as order of this forum dated 05.02.2024, was not uploaded on the website of the authority, but at the same time, according to learned counsel, his client (DH), sent email to the JD alongwith three cheques. Even, before that day, DH went to the office of JD on 04.03.2024, alongwith three cheques, but same were not accepted by the JD. Perhaps, learned counsel for JD was not in position to verify this fact. He sought adjournment which was allowed and matter was fixed for 20.03.2024.

None appeared on behalf of JD on 20.03.2024. Learned counsel for DH reasserted that his client sent three cheques of outstanding dues, as per calculation done by JD itself but same were not accepted by JD.

*There was none on behalf of JD to verify this fact.
Matter was adjourned for 02.05.2024.*

*As mentioned above, on an application filed by
DH, show cause notice were issued to directors of JD as
why same be not committed to civil prison for not
handing over possession of subject unit. No reply is filed
by any of directors of JD, despite service of notice upon
Mr. Pawan Kumar Dhoot and Mr. Piyush Dhoot.*

*Issue arrest warrants against afore said directors
of JD, to be executable till next date by bailiff Mr. Satish
Mann. Said directors be taken into custody and be
produced before this forum on or before next date.*

To come on 05.12.2024 for further proceedings.

*(Rajender Kumar)
Adjudicating officer
14.08.2024 ”*

As per Mr. Dawar, pre-deposit of Rs.72,36,789.76 has
been made in this case in light of the report submitted by the
Registry.

Mr. Dawar prays for stay of arrest till the matter is
adjudicated upon.

Learned Counsel for the respondent, however, opposes
the prayer on the ground that main appeal has already been
dismissed due to lack of pre-deposit. As per her, possession of the
unit in question has to be handed over to the respondent in view of
the directions contained in the order passed by the Authority.

To come up on 10.01.2025 for further hearing.

In view of contentious issue involved and pre-deposit
made by the appellant-company, it is directed that warrants for
arrest of the JDs, if issued, be kept in abeyance till then.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)

19.11.2024
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