

PROCEEDINGS OF THE DAY		16
Day and Date	Tuesday and 30.07.2024	
Complaint No.	CR/1277/2018 Case titled as TATVAM RESIDENTS WELFARE ASSOCIATION VS VIPUL LIMITED	
Complainant	TATVAM RESIDENTS WELFARE ASSOCIATION	
Represented through	S/Shri Atul Agarwal and Arun Advocates	
Respondent	1. Vipul Ltd. 2. Senior Town Planner, Gurugram 3. Executive Engineer, DHBVN 4. Executive Engineer, HSVP, Division III, Gurugram 5. Commissioner, Municipal Corporation, Gurugram 6. Mr. Punit Beriwal, Managing Director, Vipul Ltd. 7. Ms. Guninder Singh, CEO	
Respondent Represented	Shri Ashish Chopra Senior counsel with Ms. Rupa Pathania Adv. for R1. Shri Pranav Khanna Adv. for R3 (POA filed today) None for respondent Nos. 2, 4, 5 to 7.	
Last date of hearing	16.07.2024	
Proceeding Recorded by	Naresh Kumari and HR Mehta	



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. डब्ल्यू. डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

Proceedings

The present matter was heard and disposed of vide order dated 02.05.2019 wherein the Authority had directed:

"Both the parties to wait till final decision of the Hon'ble High Court, till then the status quo shall prevail and the provisions of law shall come into force immediately after the decision of the Hon'ble High Court. Further it was observed that RWA is authorized to take care about their essential issues w.r.t. security, horticulture, power back-up and garbage collection and the costs shall have to be borne by the RWA."

The applicant/complainant and respondent filed appeal before the Hon'ble Appellate Tribunal, Chandigarh vide appeal no. 238/2019 and 1317/2019 and the same were disposed by the hon'ble tribunal vide order dated 23.12.2020 and against the same order dated 23.12.2020 passed by the hon'ble appellate tribunal, both the parties preferred appeals before the Hon'ble High Court of Punjab & Haryana, Chandigarh vide appeal no. 1/2021 and appeal no. 36/2021 and 37/2021 filed by the RWA were decided on 27.09.2022 as under:

"While remitting the matter back to the Authority constituted under the Real Estate (Regulation and Development) Act, 2016, the Appellate Tribunal has made the following observations: -

"42. Before parting with this order, it is pertinent to mention that TRWA have taken over the aforesaid essential services without any execution of the impugned order. This Tribunal has directed the TRWA to file the affidavit of its president vide order dated 10.07.2019. As per the affidavit dated 30.08.2019 filed by Sh. Somesh Jawarani, the president of the TRWA, it is alleged that the essential services were taken over in terms of the impugned order dated 02.05.2019, in consultation with the ground's officials of the promoter. In the affidavit, the particulars of those ground officials are not disclosed. There is also no material on record to show that the said ground officials were competent and authorized by the promoter to hand over the services to TRWA. It is an admitted case that the TRWA has not filed any execution

petition before the Id. Authority to execute the impugned order dated 02.05.2019 and to take over the aforesaid services. Thus, taking over of the services by the office bearers of TRWA is not in accordance with the law. Rather, they have taken the law in their hands. For this act of the then office bearers/members of executive of TRWA whose names and particulars have been disclosed in the affidavit dated 23.11.2020 filed by Sh. Mukesh Mittal, the Vice - President of the TRWA, the promoter shall be at liberty to initiate the appropriate civil or criminal proceedings before the appropriate forum in accordance with law, if so advised.

43. It is further the admitted fact that now the TRWA is taking care of the essential maintenance services mentioned above for the last more than one and half years, it will not be desirable to put the clock back, rather it will cause the disruption of the maintenance services which will result in utter inconvenience and hardship to the residents of Tatvam Villas. So, the TRWA is allowed to carry on with these maintenance services as interim arrangement at its own costs as directed Id. Authority in the impugned order dated 02.05.2019, however, it will be subject to the decision of the complaint by the Id. Authority." The promoter as well as the Resident Welfare Association have filed these three appeals. It is not in dispute that pursuant to the order passed by the Appellate Tribunal, the Competent Authority i.e. Real Estate Regulatory Authority has started examining the matter. The grievance of the promoter is that the Resident Welfare Association has taken over the possession of the four categories of essential services without following the due procedure laid down in the law, although the Association was not entitled thereto.

Complainant moved an application for restoration dated 16.01.2024 in view of order dated 27.09.2022 passed by Hon'ble High Court of Punjab and Haryana, the said application was allowed vide order dated 20.02.2024 and the **case is restored** and fixed for further proceedings.



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The counsel for respondent No.1 wishes to file detailed response to the complaint within 2 days and a copy of the same shall be supplied to the counsel for the complainant in advance.

The counsel for the complainant may file a rejoinder within a period of 3 weeks with an advance copy to the respondents.

The counsel for respondent No.3 has filed power of attorney today during proceedings and requests that copy of application/complaint may be supplied to him to which the counsel for the complainant undertakes to do so within a period of one week. The counsel for respondent No.3 may file reply within a period of 2 weeks with an advance copy to the complainant.

None is present on behalf of respondent Nos.2, 4, 5 to 7.

Matter to come up on 03.09.2024 for further proceedings at 3.00 PM. No further adjournment shall be granted.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Arun Kumar
Chairman
30.07.2024