COMPLAINT NO. 1124 OF 2021

Hemwant Silswal ....COMPLAINANT

VERSUS

RPS Infrastructure Ltd. ......RESPONDENT

CORAM: Nadim Akhtar **Member**

Chander Shekhar **Member**

Date of Hearing: 21.10.2024

Hearing: 13th

Present: - Adv. Gopal Singh, counsel for the complainant through VC.

Adv. Garvit Gupta, counsel for respondent though VC

Mr. Rohit Mittal Advocate, counsel for M/s Wonder Infracon Pvt. Ltd.

ORDER (NADIM AKHTAR-MEMBER)

1. Ld. counsel for complainant argued that :-

   a. The impleadment application filed by M/s Wonder Infracon Pvt. Ltd. on 19.09.2022, claims that the complainant sold the unit in question to them, receiving a premium of ₹2,00,000/-. This transaction was purportedly formalized by an agreement dated 10.05.2016. However, it is important to note that M/s Wonder Infracon Pvt. Ltd. has not submitted this agreement, which is crucial in substantiating the claim that the transaction was formalized between the complainant and M/s Wonder Infracon Pvt. Ltd. Further, in a reply to this impleadment application dated 16.08.2023, the complainant included details of the corporate registrations of both involved entities. The complainant pointed out that Annexure 6 of this reply reveals the corporate address of RPS Infrastructure as "1117-1120, 11th Floor, Tower-B, DLF Tower, Jasola, District Center, New Delhi, 110025," while M/s Wonder Infracon Pvt. Ltd. is registered at "1123, DLF Tower-B, Jasola, District Center, New Delhi, 110025." The proximity of these addresses within the same building indicates a potential link between the two companies, which could imply a relationship that may be relevant to the case.

b. He further stated that Complaint no. 1130 of 2020 and 1132 of 2020 pertains to similar subject matter and Hon'ble Authority had decided these complaints in favour of complainants.

c. He further referred to an order dated 05.07.2022 passed by the Authority wherein directions were given to respondent "*....relief of refund cannot be allowed to the complainants on the ground that project construction is complete and occupation certificate has already been applied for. Authority is prima facie of the view that upfront delay interest from the due date upto actual handing over of possession deserves to be allowed to the complainants-allottees and the same, will be credited by the respondent in the accounts of complainant"*. To comply with this order, several cheques were issued on behalf of the respondent. Notably, some cheques were issued by M/s Wonder Infracon Pvt. Ltd., which supports the assertion that both companies are connected. However, both the respondent and M/s Wonder Infracon Pvt. Ltd. continue to assert that they are separate entities and maintain no affiliation. This discrepancy between actions and claims raises questions about the true nature of the relationship between the two companies.

2. Ld. counsel on behalf of M/s Wonder Infracon Pvt. Ltd argued that;

a. Respondent namely "RPS Infrastructure Ltd." and " M/s Wonder Infracon Pvt. Ltd." are distinct entities with no affiliation or relationship between them. He argued that the mere fact of having corporate offices within the same building does not constitute evidence of any connection or relationship between the two companies.

b. The Authority further questioned the counsel regarding the agreement dated 10.05.2016, which formalized the sale of the unit to M/s Wonder Infracon Pvt. Ltd., noting that it had not been submitted in the record. The counsel explained that this document is currently untraceable due to the company's office relocation.

3. Ld. counsel for respondent i.e., RPS Infrastructure Ltd. argued that;

a. The counsel drew attention to the specific reliefs sought by the complainant. In Relief No. 1, where the complainant seeks a refund of ₹66,96,000/-, the ld. counsel noted that as per the Authority's order dated 05.07.2022, the respondent was directed to pay delay charges for the delay in handing over possession. Since both delayed possession charges and a refund cannot simultaneously be granted, the counsel emphasized that the complainant's relief request requires clarification.

4. After hearing averments of parties, Authority orders as follows:

a. M/s Wonder Infracon Pvt. Ltd. is ordered to submit documents that prove any relationship between the complainant and M/s Wonder Infracon Pvt. Ltd. Additionally; they must provide evidence that an agreement was executed with the complainant on 10.05.2016.

b. The complainant is directed to file an application clarifying the specific relief sought and to submit documentation showing how and by whom the full consideration amount for the unit in question was paid?

c. Authority further directs that all documents must be submitted at least four weeks prior to the next hearing date.

5. Case is adjourned to **03.02.2025.**

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CHANDER SHEKHAR
[MEMBER]

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NADIM AKHTAR
[MEMBER]