



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. COMPLAINT NO. 856 OF 2020

Dr. Viney Kumar

....COMPLAINANT(S)

VERSUS

M/s Parsvnath Developers Ltd.

....RESPONDENT(S)

2. COMPLAINT NO. 857 OF 2020

Davender Singh

....COMPLAINANT(S)

VERSUS

M/s Parsvnath Developers Ltd.

....RESPONDENT(S)

3. COMPLAINT NO. 1006 OF 2020

Kiran

....COMPLAINANT(S)

VERSUS

M/s Parsvnath Developers Ltd.

....RESPONDENT(S)

4. COMPLAINT NO. 1009 OF 2020

Naveen

....COMPLAINANT(S)

VERSUS

M/s Parsvnath Developers Ltd.

....RESPONDENT(S)

5. COMPLAINT NO. 1043 OF 2020

Jyoti Phogat through POA Udai Singh Phogat

....COMPLAINANT(S)

VERSUS

M/s Parsvnath Developers Ltd.

....RESPONDENT(S)

6. COMPLAINT NO. 1090 OF 2020

Surender Singh

....COMPLAINANT(S)

VERSUS

M/s Parsvnath Developers Ltd.

....RESPONDENT(S)

7. COMPLAINT NO. 1170 OF 2020

Sanjay Singh Sehrawat

....COMPLAINANT(S)

VERSUS

M/s Parsvnath Developers Ltd.

....RESPONDENT(S)

8. COMPLAINT NO. 1259 OF 2020

Hari Om

....COMPLAINANT(S)

VERSUS

Parsvnath Developers Ltd.

....RESPONDENT(S)

9. COMPLAINT NO. 1265 OF 2020

Kusum Lata

....COMPLAINANT(S)

VERSUS

Parsvnath Developers Ltd.

....RESPONDENT(S)

10. COMPLAINT NO. 1253 OF 2020

Naresh Kumari

....COMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.

....RESPONDENT(S)

11. COMPLAINT NO. 1207 OF 2020

Ramesh Malik & Anr.

....COMPLAINANT(S)

VERSUS

Parsvnath Developers Ltd.

....RESPONDENT(S)

12. COMPLAINT NO. 1208 OF 2020

Ramesh Malik

....COMPLAINANT(S)

VERSUS

Parsvnath Developers Ltd.

....RESPONDENT(S)

13. COMPLAINT NO. 1147 OF 2021

Sunita

....COMPLAINANTS

VERSUS

Parsvnath Developers Ltd.

....RESPONDENTS

CORAM:

**Rajan Gupta
Dilbag Singh Sihag**

**Chairman
Member**



Date of Hearing: 15.07.2022

Hearing: 9th (in complaint nos. 856, 857, 1006, 1009, 1043, 1090, 1207, 1208 of 2020)

8th (in complaint nos. 1170, 1259, 1265 of 2020)

7th (in complaint no. 1253 of 2020)

3rd (in complaint no. 1147 of 2021)

Present: - Mr. Sushil Malhotra, learned counsel for the complainants

(in complaint nos. 856, 857, 1006, 1009, 1043, 1090, 1170, 1259, 1265 of 2020; 1147 of 2021)

Mr. Ramesh Malik, learned counsel for the complainants
(in complaint nos. 1207, 1208 of 2020)

None for the complainant
(in complaint no. 1253 of 2020)

Ms. Rupali S. Verma, learned counsel for the respondent through video conference

ORDER (RAJAN GUPTA - CHAIRMAN)

1. Captioned bunch of complaints (except complaint case no. 1147 of 2021) were listed for 6th/7th/8th hearing before the Authority on 30.11.2021 when the matter was heard by Full Bench of Authority comprised of



undersigned-Chairman and both Hon'ble Members. Operative part of the order dated 30.11.2021 is reproduced below:-

"10. On account of aforesaid findings, Authority would consider it just and appropriate that complainants are entitled to interest on the amount paid by them from the due date of offering possession upto the actual date of offer of possession.

In none of the BBAs placed before the Authority precise due date of delivery of possession has been mentioned. Clause 8(a) of the agreement however, stipulates that development works would be completed within 24 months. It can therefore be presumed that due date of delivery should be calculated as two years from the date of executing BBAs.

11. Now, the Authority will take up facts of each individual case to determine the amounts receivable and payable by respective parties by duly incorporating therein delay interest admissible. Both the parties are directed to submit their calculation of payable delay interest. The respondents shall also issue a revised statement of accounts to the complainants duly incorporating therein delay interest admissible to them. Respective parties are directed to take action accordingly.

12. Cases are adjourned 20.01.2022."

It was unanimous decision of the Full Bench, and reliefs prayed for by complainants had been allowed by the Authority. Now, the matter remained only in respect of determination of the amount receivable/payable by respective parties in accordance with the order.

2. Thereafter, the matters were listed four times on 20.01.2022, 10.02.2022, 21.04.2022 and 29.06.2022/30.06.2022. On each of these dates, the matters were adjourned for the reasons cited below:-

- i) **20.01.2022** - On this date, the matter could not be taken up for hearing because Coram was not complete as Hon'ble

Member Sh. Dilbag Singh Sihag was on leave. He had planned his leave in the month of December 2021 itself. The 2nd member having retired on 04.12.2021, only Chairman would have been available. As per provisions of the Act and practice Chairman along with all Members constitutes Coram of the Authority. An intimation of adjournment was sent to all the parties on 22.12.2021.

ii) **10.02.2022** - On this date, only 30 matters out of the cause list of 68 cases could be taken up whereafter the court was adjourned because a meeting was held by senior functionaries of State Government to discuss various issues in regard to forthcoming Conference relating to problems of Real Estate Sector in Haryana at Gurugram in 3rd week of February, 2022.

iii) **21.04.2022** - On this date, again the Court could not be held due to lack of Coram. Only Chairman was available. Hon'ble Member of Authority was on leave. An intimation of adjournment was conveyed to all parties on 20.04.2022.

iv) **29.06.2022/30.06.2022** - On this date, a request was received beforehand from learned counsel for respondents that they will be out of station from 24.06.2022 to 02.07.2022.

3. On the last date of hearing i.e. 29.06.2022, learned counsel Sh. Sushil Kumar Malhotra and learned counsel Sh. Ramesh Malik appearing on behalf of complainants had vehemently argued that unnecessary adjournments are being granted by Authority and justice to the complainants is being delayed. Considering request of learned counsels, Authority decided to list the matters at the earliest.

Authority normally does not hold court on Fridays. Since, request made by learned counsels for complainants was genuine that delay had occurred in finally disposing off the bunch matters, Authority by way of special accommodation decided to hold court on Friday i.e. today 15.07.2022. Authority had also ordered that no further opportunity will be given to any party and the matters will be finally decided on 15.07.2022.

4. A letter dated 08.07.2022 dak receipt no. 17250 has been received in the office of Authority in complaint case nos. 856, 857 and 1265 of 2020. This letter/ application has been filed by learned counsel Sh. Sushil Kumar Malhotra. Learned counsel after going through the history of the cases has averred that these matters are being deliberately delayed and justice is being denied to the complainants. Concluding part of the letter dated 08.07.2022 reads as follows:-

“Therefore, in view of the above submissions it is apparently clear that the final order is being delayed in collusion with the HRERA, Panchkula for the reason best known to them specially the Chairman of the Hon’ble Authority on many occasion has been paddling and having a soft corner to this particular builder

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and has been accommodating the counsel of the builder for the reasons best known to him may be fore extraneous considerations otherwise after repeated directions the order dated 30.11.2021 have not been complied with nor any cost has been imposed on the respondents. There is going to be a lapse of 7 months without any effective hearing in the present complaint.”

5. The undersigned observe that Authority had already granted substantive relief prayed for by the complainants vide order dated 30.11.2021. Thereafter, only the question of making calculations in respect of amounts receivables/payables remained to be adjudicated.

6. On four dates thereafter, Court could not be held for the reasons given in para 2 above. On none of the dates adjournment was given without proper justification. Further, Authority realising that delay of 5 to 6 months has occurred, a special date of 15.07.2022 was given which is a Friday, and Authority does not hold court on Fridays. A special slot was created to finalise this bunch of matters. Even after such special accommodation given to complainants, learned counsel Sh. Sushil Kumar Malhotra has written the aforesaid letter dated 08.07.2022, the operative part of which has been reproduced in para 4 above.

7. Since allegations of bias have been made against undersigned-Chairman, I consider it fair and just not to deal with these matters any further. Accordingly, in the interest of transparency, fairness and justice,

undersigned Chairman hereby recuses himself from further proceedings in the matter.

The undersigned is of considered view that delay of few months is acceptable and tolerable cost, but impartiality, transparency and fairness are much higher values to be upheld. Undersigned is of the firm belief that Court must not only be fair and unbiased, but also appear to be so.

8. With the above observations, I transfer this matter to Hon'ble Member for passing further order considered appropriate by him.


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RAJAN GUPTA
[CHAIRMAN]

I have gone through the order dictated by Hon'ble Chairman. I fully endorse the facts mentioned in the above orders specially ⁱⁿ para 2. It is pertinent to mention that undersigned has been performing official duty as Executive Director, HRERA, Panchkula from June 2016 to January 2018, thereafter as Member of the HRERA, Panchkula Court. During this entire tenure, I have not confronted with any allegations and counter allegations from any allottee, agent, promoter or from general public other than allegations levelled by Sh. Sushil Kumar Malhotra. Authority has tried its best to be fair, judicious and considerate to everyone without any prejudice

as its basic objective is timely and judiciously dispose of complaints without considering who the complainant is and against whom.

Learned counsel Sh. Sushil Kumar Malhotra, has filed an application alleging partiality on the part of Authority for a particular respondent promoter. It is my presumption, perhaps he was not aware of factual matrix while levelling those very serious and undesirable allegations against the Authority. The entire facts have already been recorded in the order dictated by Hon'ble Chairman. No further clarification, justification in this regard is required from my side, nevertheless it is sad and very painful for me as well, facing such unfounded allegations. When Hon'ble Chairman took a decision to recuse from further proceedings in the matter, further Court proceedings get ceased and will not be concluded unless and until some other member joins the Authority. Though Hon'ble Supreme Court has already upheld that even a single judge can hold the Court of RERA to decide and adjudicate various complaints lodged against promoters or allottees. But a principal decision was taken at the level of this Authority before beginning of the Court hearings that a Division bench shall hear all the complaints since Hon'ble Chairman and remaining two Members were from different backgrounds and disciplines. Besides, being a multidisciplinary team, Authority under Division Bench can appreciate various facts of the complaint in legal terms more comprehensively and dispose of matter in a transparent manner. Such provision also ruled out the possibility of human

subjectiveness in understanding the matter in its entirety. Therefore, Authority has adopted a procedure of hearing all the complaints by Division Bench rather by a single judge. It is also prudent to mention that in all administrative matters, a collective decision has been taken wherein Hon'ble Chairman along with Members participated and decided the matters on merits.

Considering the merit of Division bench, the Government of Haryana has published a notification dated 25.03.2022 vide which one Member each in both Authorities have been added so that the practice of Division bench can continue in future to decide the increased volume of complaints. The operative part of this notification is being reproduced below for consideration and ready reference:

**“GOVERNMENT HARYANA
TOWN & COUNTRY PLANNING DEPARTMENT
Noification**

Dated: the 25th March, 2022

No. 1/26/2021-1TCP:- in exercise of the powers conferred by Section 21 of the real Estate (Regulation and Development) Act, 2016 and all other powers enabling on that behalf, the Governor of Haryana is pleased to create one more post of Member each in HRERA, Panchkula and HRERA Gurugram in addition. Now, these HRERAs will have one Chairman and three Members. Further, two benches will function in every HRERA consisting of Chairman + One Member OR Two Members to speed up the disposal.

-sd-

(Devender Singh, IAS)

Additional Chief Secretary to Government Haryana,
Town & Country Planning Department”



Since Hon'ble Chairman has already recused from further hearing and at present no other Member is available except undersigned, therefore these cases are being adjourned Sine die for time being till the joining of other Members in the Authority for which process of selection of Members is under way. These cases will be listed immediately as and when other Members join the Authority.



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DILBAG SINGH SIHAG
[MEMBER]

