

ARB No. 72 of 2019
ARB No. 220 of 2019
ARB No. 223 of 2019
ARB No. 88 of 2019
ARB No. 91 of 2019
ARB No. 221 of 2019

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

ARB No. 72 of 2019
Date of Decision: 27.10.2022

M/s Vipul Ltd.

-Petitioner

Versus

Mrs. Meera Singh

-Respondent

ARB No. 220 of 2019

M/s Vipul Ltd.

-Petitioner

Versus

Mr. Devendra Singh Yadav

-Respondent

ARB No. 223 of 2019

M/s Vipul Ltd.

-Petitioner

Versus

Mr. Pankaj Aggarwal and another

-Respondents

ARB No. 88 of 2019

M/s Vipul Ltd.

-Petitioner

Versus

Mr. Rajiv Khanna and another

-Respondents

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ARB No. 91 of 2019
M/s Vipul Ltd. -Petitioner

Versus

Mrs. Anita Bhat Gupta and another -Respondents

ARB No. 221 of 2019

M/s Vipul Ltd. -Petitioner

Versus

Atul Sobti -Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vineet Sehgal, Advocate,
for the petitioner(s).

Mr. Amique Khalid, Advocate,
for the respondent(s).

RAJ MOHAN SINGH, J. (Oral)

1. Vide this common order, ARB No. 72 of 2019, ARB No. 220 of 2019, ARB No. 223 of 2019, ARB No. 88 of 2019, ARB No. 91 of 2019 and ARB No. 221 of 2019 are being disposed of. Relevant facts are taken from ARB No.72 of 2019.
2. The petitioner has preferred petitions under Section 11(6) of Arbitration and Conciliation Act, 1996 as amended upto

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date for appointment of an arbitrator in terms of Clause 49 of Maintenance Agreement dated 12.10.2011.

3. Respondent(s) had booked a villa having specified area with developed area from the petitioner. Builder Buyer agreement along with other details are as under:-

1. ARB No.72 of 2019

Builder Buyer Agreement	04.06.2010
Maintenance agreement	12.10.2011
Notice	15.12.2018
Reply	23.02.2019

2. ARB No.88 of 2019

Builder Buyer Agreement	01.05.2007
Maintenance agreement	17.01.2011
Notice	30.01.2019
Reply	23.02.2019

3. ARB No.91 of 2019

Builder Buyer Agreement	21.04.2017
Maintenance agreement	07.03.2011
Notice	28.01.2019
Reply	23.02.2019

4. ARB No.220 of 2019

Builder Buyer Agreement	25.08.2008
Maintenance agreement	22.02.2012
Notice	19.04.2019
Reply	15.05.2019

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5. **ARB No.221 of 2019**

Builder Buyer Agreement	23.04.2007
Maintenance agreement	01.12.2010
Notice	09.05.2019
Reply	24.06.2019

6. **ARB No.223 of 2019**

Builder Buyer Agreement	08.08.2007
Maintenance agreement	06.12.2010
Notice	09.05.2019
Reply	24.06.2019

4. Petitioner(s) is a Real Estate Developer. Petitioner(s) was granted licence for development of a plotted residential colony in Sector 48, Gurugram under the name and style of Vipul World. Petitioner(s) has conceptualized, promoted and bounded Villas known as Tatvam Villas spreading over an area of 53 acres approximately.

5. Initially, the villa in question was booked by the respondent and her husband jointly. Subsequently, the name of husband of the respondent was deleted. On 16.05.2012, a conveyance deed was executed in favour of the respondent, specifically mentioning and agreeing between the parties that the default in compliance of terms and conditions of maintenance agreement would *ipso facto* be construed to be

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commission of default under the term of Buyer Agreement dated 04.06.2010.

6. Allegation of the petitioner(s) is that the respondent in an illegal manner has not made the payment outstanding and payable towards maintenance and electricity charges with interest till 15.12.2018. As per terms and conditions of maintenance agreement, the petitioner(s) is entitled for maintenance charges from the respondent. Petitioner(s) was forced to file petition under Section 9 of Arbitration and Conciliation Act. The said petition was disposed of.

7. Clause 49 of the maintenance agreement provides for arbitration clause in respect of dispute resolution by means of arbitration to be conducted under the provisions of Arbitration and Conciliation Act, 1996.

8. Petitioner(s) has invoked the arbitration clause by notice of invocation dated 06.02.2019 and also nominated one Mr. Anil Kumar Tibrewal as sole arbitrator to adjudicate the dispute with regard to payment of maintenance charges.

9. In response to the aforesaid notice, reply was filed by the respondent on 23.02.2019 thereby agreeing to settle the dispute by means of arbitration and also nominated one Mr.

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Sanjeev Puri to be sole arbitrator on behalf of the respondent.

10. During course of arguments, learned counsel for the respondent(s) submits that even during pendency of present petition, necessary amount has been deducted by the petitioner from the security amount of the respondent and similarly situated allottees and therefore, there is no dispute as of now. The stand of the respondent(s) has been refuted by learned counsel for the petitioner(s) on the ground that even RERA proceedings do not cover the arrears of maintenance as is being sought to be adjudicated by means of arbitration proceedings. The arrears are for the period even before initiation of RERA proceedings.

11. There are assertions on behalf of the respondent(s) and denial on behalf of the petitioner(s). All these issues, in my considered opinion, will give rise to arbitral issues which will be adequately decided by the arbitrator. Both the parties have proposed their own arbitrators. I deem it appropriate to appoint sole arbitrator *de hors* the names proposed by both the parties. Nomination of the arbitrators by the parties is suggestive of the fact that both the parties have acknowledged their claims in the context of maintenance and electricity charges.

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12. The contention of learned counsel for the respondent(s) is that there is no dispute subsisting as on date in view of culmination of RERA proceedings and after deduction of payment by the petitioner from security amount of the respondent/allottees.

13. In my considered opinion, all these issues can be debated before the Arbitrator.

14. In view of facts and circumstances of the case, I deem it appropriate to appoint Sh. Vikrant Nehra, Advocate, # C8/T2, Dilshad Garden, Delhi 110095, Mobile No.09811421208 as the sole Arbitrator in all the aforesaid cases, to resolve the dispute/difference between the parties. The appointment of the Arbitrator shall be subject to the declaration to be made by him as required under Section 12 of Arbitration and Conciliation Act, 1996 in respect of his independence and impartiality to settle the dispute between the parties.

15. The Arbitrator would complete the proceedings within the specified time in terms of Section 29-A of the said Act. The Arbitrator shall be paid fee in accordance with the IVth Schedule of the Act as amended from time to time. The fee shall be borne by the petitioner and respondent(s) in equal proportion.

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16. The venue will be as per the convenience of the Arbitrator.

17. A copy of this order be dispatched to the Arbitrator at the following address:-

Sh. Vikrant Nehra, Advocate

C8/T2, Dilshad Garden, Delhi 110095

Mobile No.09811421208

18. Petition stands disposed of accordingly.

27.10.2022

Jyoti Sharma

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No