



TA-1005-2024

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

Sr. No.106

TA-1005-2024

Date of Decision: 24.07.2025

M/S GILLCO DEVELOPERS AND BUILDERS PRIVATE LIMITED

...Applicant

Versus

**THE REAL ESTATE REGULATORY AUTHORITY PUNJAB AND
ANOTHER**

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Munish Gupta, Advocate
for the applicant.

Mr. Prashant Rana, Advocate
for respondent No.1.

Mr. Mohit Sadana, Advocate
for respondent No.2
(through video conferencing).

ARCHANA PURI, J. (Oral)

The applicant-M/s Gillco Developers & Builders Private Limited, through authorized signatory, has filed the present application for seeking transfer of the complaint i.e. GC/0406 of 2022 dated 31.07.2022, titled '*Ankit Jain Vs. Gillco Developers and Builders Private Limited*',



TA-1005-2024

pending before the Real Estate Regulatory Authority, Punjab and the applicant seeks transfer of the same to the Court of competent jurisdiction i.e. Real Estate Regulatory Authority, Panchkula.

Upon notice issued, both the respondents made appearance through respective counsel and filed replies.

The counsel for the parties heard.

The essential facts to be noticed are that respondent No.2-Ankit Jain, had filed a complaint under Section 31 of the Real Estate (Regulation and Development) Act, 2016, thereby alleging that he had deposited an amount of Rs.21,00,000/- with the applicant, in the year 2018. The said amount was refunded i.e. Rs.10,00,000/- on 20.01.2021 and Rs.11,00,000/- on 22.01.2021. The said refund, made, was a unilateral decision and respondent No.2 is entitled for allotment of an alternate plot. The said complaint was filed by respondent No.2 on 31.07.2022, copy whereof is Annexure P-1. However, upon notice, the applicant had made appearance and apprised the authority that in fact, no allotment was ever made in favour of respondent No.2 and what is termed as 'allotment', was a mere nomination, but since the plot so nominated against the booking of respondent No.2 was not a developable plot, therefore, the amount paid by him was refunded. Upon the complaint filed by respondent No.2, proceedings continued before the Real Estate Regulatory Authority, Punjab. However, there was disruption in the proceedings since February 2024, on account of the Chairperson having relinquished the charge and thereafter the State Government having taken over the authority. As a stopgap arrangement, Sh. Malwinder Singh Jaggi, IAS, was appointed as the



TA-1005-2024

authority. In the application, it is asserted that as and when Sh. Malwinder Singh Jaggi, IAS, had taken over the charge, respondent No.2 started proclaiming about getting a favourable order.

In the application, the detail of the manner of conducting of the proceedings by the authority has also been given and on the basis therefore, it is asserted that doubt is raised about favourable order to be passed qua the complaint, in favour of respondent No.2-Ankit Jain. As such, the transfer of the complaint has been sought by the applicant, from Real Estate Regulatory Authority, Punjab, to any other Court of competent jurisdiction i.e. Real Estate Regulatory Authority, Panchkula (Haryana).

The respondents in the reply, resisted the claim of the applicant. In fact, respondent No.1 in its reply had disputed the maintainability of the application, as it is submitted that Real Estate Regulatory Authority, is not a 'Court', within the meaning of Section 24 CPC. Moreover, the grievance essentially pertained to the period, when Sh. Malwinder Singh Jaggi, IAS, had taken over the charge of Real Estate Regulatory Authority and the same was an interim arrangement, which continued up to 12.09.2024, which has now come to an end. However, the authority was reconstituted by the Government of Punjab, by virtue of appointment of Sh. Rakesh Kumar Goyal, as Chairperson and Sh. Binod Kumar Singh & Sh. Arunvir Vashista, as Members. Presently, the complaint is pending before Sh. Binod Kumar Singh, Member. As such, a prayer has been made for dismissal of the application.

The counsel for respondent No.2-Ankit Jain, who is the complainant of the case pending before Real Estate Regulatory Authority,



TA-1005-2024

Punjab, while stating about the contents of the complaint, has stated that respondent No.2 has no objection, if the complaint is transferred to any other competent Court/Forum and he is ready to assist the authority concerned on merit. Further, it is asserted that the applicant is only trying to mislead the Court, just to delay the matter, so that in the meantime, the applicant-company can sell the remaining plots and also to build undue pressure on the Presiding Officer.

During the course of arguments, the counsel for the applicant has vehemently pointed out, to various annexures, which are copies of the zimini orders passed by the authority in the pending complaint. From the same, it is evident that the complaint was filed in the year 2022 and thereupon, it was dealt by Sh. Satya Gopal, the then Chairperson, Real Estate Regulatory Authority, Punjab, upto 04.01.2024, when the complaint was adjourned for 16.02.2024, relating to which the applicant has no grievance. However, on 16.02.2024, the order was got recorded under the signatures of PS to Chairperson, wherein it was stated that the Chairperson has relinquished the charge and no new incumbent has joined and the case was adjourned to 05.04.2024, on which date also, the order was passed by PS to Chairperson and the case was adjourned for 24.05.2024.

However, the grievance of the applicant started from passing of the order dated 08.05.2024, which was passed by Sh. Malwinder Singh Jaggi, IAS. The order passed on the said date is reproduced in verbatim, as hereingiven:-

“XXX

XXX

XXX

An application has been filed by the complainant



TA-1005-2024

for preponement of the matter with a prayer that the matter may be heard in the second week of mya 2024.

Perusal of the file revealed that pleadings are already complete and even the learned counsel for the complainant has submitted his written arguments. However, respondent has yet to file his written arguments.

In view of the reasons mentioned in the application and the fact that the pleadings are not complete, the application for preponement is allowed.

Registry is directed to issue notice to both the parties for 16.05.2024, at 11.30 a.m.”

On 16.05.2024, on the request of the counsel for the complainant, the case was adjourned for 30.05.2024. On 30.05.2024, the counsel for the respondent had sought an adjournment and the complaint was adjourned further for 03.06.2024. On 03.06.2024, it was further adjourned for 06.06.2024. On 06.06.2024, part arguments were heard and for remaining arguments, the complaint was adjourned to 24.06.2024 and then to 01.07.2024. On 01.07.2024, on joint request of both the parties, it was adjourned to 05.07.2024 and then again, it was adjourned from 05.07.2024 to 27.08.2024, for the same purpose. Though, the matter was adjourned for 27.08.2024, but it was taken up on 08.07.2024 and was adjourned further for 24.07.2024. On 24.07.2024, the order was again passed under the signatures of PS to Chairperson, thereby stating that the authority has since relinquished the charge on 11.07.2024 and the matter was adjourned for 04.09.2024. During the interregnum period, an e-mail was received from the Executive Legal, Real Estate Regulatory Authority,



TA-1005-2024

Punjab, copy whereof is Annexure P-4 and the same is reproduced in verbatim, as hereingiven:-

“XXX XXX XXX

Whereas the complainant has filed an application dated 06.08.2024 for preponing the date of hearing of the above-mentioned complaint. The application was considered and vide order dated 08.08.2024, the application was allowed.

*The date of hearing in the above-mentioned complaint is preponed from 04.09.2024 to 22.08.2024 at 10.11 a.m. before Sh. Binod Kumar Singh, Member, Real Estate Regulatory Authority, Punjab at the office situated at **First Floor, Plot No.3, Block B, Madhya Marg, Sector 18A, Chandigarh.***

It is made clear that in case of your failure to attend the proceedings on the above-mentioned fixed date, the matter will be decided in your absence, in accordance with law, in this regard.”

It reveals that the captioned complaint was preponed from 04.09.2024 to 22.08.2024 and was listed before Sh. Binod Kumar Singh, Member. The said e-mail was sent, in pursuance of the order passed by Sh. Binod Kumar Singh, Member, on 08.08.2024, on the application for preponement, filed by the complainant. Copy of the order dated 08.08.2024 passed by the authority is Annexure P-5.

On the basis of the aforesaid orders, it is submitted by the counsel for the applicant that the authority of its own, is not following the proper procedure and in fact, had preponed the complainant with an anxiety to provide favourable order to the complainant i.e. respondent No.2-Ankit Jain.



TA-1005-2024

Firstly, the question arises about intervention to be made by this Court, *vis-a-vis*, the complaint pending before Real Estate Regulatory Authority. Though, it is submitted that the Real Estate Regulatory Authority is not a Court, but however, in this regard, suffice to make reference to the judgment passed by Hon'ble Supreme Court in the matter of '***State of M.P. and another Vs. Anshuman Shukla***' 2008 AIR (Supreme Court) 2454, wherein while considering the question of Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983, to be a Court or not, it was held as hereingiven:-

“XXX

XXXX

XXXXX

16. *The very fact that the authorities under the Act are empowered to examine witnesses after administering oath to them clearly shows that they are 'Court' within the meaning of the Evidence Act. It is relevant to refer to the definition of 'Court' as contained in Section 3 of the Indian Evidence Act which reads as follows :-*

'Court' includes all Judges and Magistrates, and all persons, except arbitrators, legally authorised to take evidence. The Tribunal has been confirmed various powers. There, therefore, in our opinion, cannot be any doubt whatsoever that the authorities under the Act are also 'courts' within the meaning of the provisions of the Indian Evidence Act.

17. *The definition of 'Courts' under the Indian Evidence Act is not exhaustive (See **The Empress vs. Ashootosh Chuckerbutty and others**, ILR (4) Cal. (15) 483 (FB). Although the said definition is for the purpose of the said Act alone, all authorities must be held to be courts within the meaning of the said provision who are legally*



TA-1005-2024

authorised to take evidence. The word 'Court' under the said Act has come up for consideration at different times under the different statutes.

*18. The Commissioner who has been authorised to take evidence of the witnesses has been held to be a court (See **Jyoti Narayan vs. Brijnandan Sinha : AIR 1954 Patna 289**). The Rent Controller has been held to be a court (See **G. Bulliswamy vs. Smt. C. Annapurnamma : AIR 1976 Andhra Pradesh 270**). The Election Tribunals have been held to be courts (See **Prem Chand vs. Sri O.P. Trivedi and others : AIR 1967 All. L.J. 5 at page 7**). Coroners before whom evidence can be adduced have been held to be courts (See **Tanajirao Martinrao Kadambande vs. H.J. Chinoy : 71 Bombay Law Reporter 732**). In **Brijnandan Sinha vs. Jyoti Narain**, it has been held that any Tribunal or authority whose decision is final and binding between the parties is a court. In the said decision, the Supreme Court, while deciding a case under Court of Enquiry Act held that a court of enquiry is not a court as its decision is neither final nor binding upon the parties. In **Vindar Kumar Satya vs. State of Punjab** the Supreme Court has made a broad distinction of a court and quasi judicial Tribunal. In the **Sitamarhi Central Co-operative Bank Ltd. vs. Jugal Kishore Sinha : AIR 1965 Patna 227** a Division Bench of the Patna High Court has held that Assistant Registrars appointed under the Bihar and Orissa Cooperative Societies Act to be courts. In the said decision, this Court has held that, when a question arises as to whether the authority constituted under a particular Act exercising judicial or quasi judicial power is a court or not, then the following tests must be fulfilled before the said authority can be termed as a court :*



TA-1005-2024

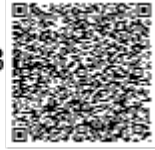
- "(a) the dispute which is to be decided by him must be in the nature of a civil suit ;*
- (b) the procedure for determination of such dispute must be judicial procedure ; and*
- (c) the decision must be a binding nature."*

*The aforementioned judgment has been affirmed by the Supreme Court in the case of **Thakur Jugal Kishore Sinha vs. Sitamarhi Central Coop. Bank Ltd.** In **Chandra Kishore Jha vs. State of Bihar : 1975 BBCJ 656**, a Division Bench of the Patna High Court has held the the Compensation Officer acting under the Bihar Land Reforms Act, 1950, to be a court as the said officer exercises judicial power deciding civil dispute and pass an order which is final and binding between the parties. In **S.K. Sarkar, Member, Board of Revenue, U. P., Lucknow vs. Vinoy Chandra Misra : (1981) 1 SCC 436** the Board of Revenue has been held to be a court subordinate to the High Court for the purpose of the provisions of the Contempt of Court Act."*

Furthermore, the Court also observed as hereingiven:-

*"21. A Court for the purpose of application of the Limitation Act should ordinarily be subordinate to the High Court. The High Court exercises its jurisdiction over the subordinate courts inter alia in terms of Section 115 of the Code of Civil Procedure. While the High Court exercises its revisional jurisdiction, it for all intent and purport exercises an appellate jurisdiction. [See - **Shankar Ramchandra Abhyankar vs. Krishnaji Dattatreya Bapat**].*

22. The provisions of the Act referred to hereinbefore clearly postulate that the State of Madhya Pradesh has



TA-1005-2024

created a separate forum for the purpose of determination of disputes arising inter alia out of the works contract. The Tribunal is not one which can be said to be a Domestic Tribunal. The Members of the Tribunal are not nominated by the parties.

The disputants do not have any control over their appointment. The Tribunal may reject a reference at the threshold. It has the power to summon records. It has the power to record evidence. Its functions are not limited to one Bench. The Chairman of the Tribunal can refer the disputes to another Bench. Its decision is final. It can award costs. It can award interests. The finality of the decision is fortified by a legal fiction created by making an Award a decree of a Civil Court. It is executable as a decree of a Civil Court. The Award of the Arbitral Tribunal is not subject to the provisions of the Arbitration Act, 1940 and the Arbitration and Conciliation Act, 1944. The provisions of the said Acts have no application.

23. We are, therefore, of the opinion that the Tribunal for all intent and purport is a Court. The Tribunal has to determine a lis. There are two parties before it. Its proceedings are judicial proceeding subject to the revisional order which may be passed by the High Court.”

In the backdrop of the observations aforesaid, it is pertinent to mention that any decision given by the Real Estate Regulatory Authority, is binding on the parties. Furthermore, the orders passed by the Appellate Tribunal are executable as decree, as per Section 57 of the Real Estate (Regulation and Development) Act, 2016 and any person aggrieved by any decision or order by the Appellate Tribunal, also has an option to file appeal



TA-1005-2024

before the High Court, within a period of 60 days from the date of communication of the decision, or the order, as per Section 58 of the *ibid* Act. Considering the same, for all intents and purposes, this Court being the High Court of the State, where real estate project is situated, has the jurisdiction to order the transfer of the case. In this regard, the submission made by respondent No.1, does not hold ground.

But anyhow, as detailed aforesaid, it is very true that Sh. Malwinder Singh Jaggi, IAS, who was the authority at the relevant time, had given short dates and also in between he had preponed the case. However, the fact remains that said Sh. Malwinder Singh Jaggi, had since completed his tenure and now, there is another constituted body of Real Estate Regulatory Authority, whose Chairperson is Sh. Rakesh Kumar Goyal and Sh. Binod Kumar Singh and Sh. Arunvir Vashista, are the Members. In the given circumstances, when the primary grievance was against Sh. Malwinder Singh Jaggi, who is no longer dealing with the complaint in hand, therefore, the apprehension of the applicant, *vis-a-vis*, respondent No.2 getting favourable orders, as such, stands dispelled.

No doubt, even after Sh. Malwinder Singh Jaggi, IAS, demitted the office, the complaint in hand came to be marked to Sh. Binod Kumar Singh, Member, who also, on the application dated 06.08.2024 filed by the complainant for seeking preponement, had preponed the case for 22.08.2024, but intimation relating to the same was also given to the applicant. As to what happened thereafter and whether there was any shady conduct of the Member of the authority, while dealing with the complaint, there is nothing coming on record. No subsequent orders passed by the



TA-1005-2024

authority has been placed on record, from where, assessment of anxiety on the part of the Member, dealing with the complaint, could be evident. In the given circumstances, solely the fact about the complaint having been preponed, does not *ipso facto* lead to the conclusion about the Real Estate Regulatory Authority to be hand-in-glove with respondent No.2-complainant and their extending assistance to him in obtaining a favourable order. Though, proclamation is stated to be made by the respondent about getting a favourable order, but this is a very vague assertion made in the application. Nothing is coming on record about any such proclamation made and no further detail, as to when and how it was made, has come on record. A mere presumption that such a proclamation was made, *ipso facto* does not lead to the conclusion that the authority is not working in an appropriate manner, more particularly, when the subsequent orders have not been placed on record. Thus, preponement of the complaint once, by Sh. Binod Kumar Singh, Member, does not make out a case to transfer the complaint, outside the State, as prayed for.

In view of the aforesaid fact situation, the transfer application sans merit. Hence, the same is hereby dismissed.

24.07.2025

Himanshu

**(ARCHANA PURI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes