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

CWP-22304-2018 (O&M)

Date of decision: 10.02.2025

Haryana Urban Development Authority

...Petitioner

Versus

Haryana Excise and Taxation Welfare Housing Organization (Hextax
Commune) Sector 43, Opposite DLF Centre Court, Gurgaon and another.

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Deepak Balyan, Advocate
for the petitioner.

Mr. Sandeep Singh Sangwan, Advocate and
Mr. Udit Sharma, Advocate
for respondent No.1.

KULDEEP TIWARI, J.

Through the instant writ petition filed under Article 226/227 of the Constitution of India, a prayer is made for quashing the impugned award dated 01.03.2017 passed by Permanent Lok Adalat (Public Utility Services) Gurugram, whereby the Ld. Court has partially allowed an award of Rs. 8,06,193/- (Annexure P-5), out of total demand made by petitioner of Rs. 30,00,370/- towards non-payment of sewerage charges from the year 2006 to 2014.

2. On account of unauthorized use of sewerage line, the petitioner issued a demand notice Annexure P-2 for Rs. 30,00,370/- to respondent



No.1, who is a Welfare Housing Society, duly registered under the Haryana Co-operative Society Act, 1984, which caused grievance to respondent No.2, and the same was challenged by respondent No.2, by filing application under Section 22-C of the Legal Services Authorities Act, before the Permanent Lok Adalat (Public Utility Services) Gurugram. It is averred in the application that respondent No.2, applied to respondent No.4, for sewerage connection, and on the asking of respondent No.6, the petitioner completed the necessary formalities, and also deposited a sum of Rs. 50,000/- (Rs. 30,000/- for water charges + Rs. 10,000/- for sewer charges + Rs. 10,000/- for security charges) vide receipt No. 375 dated 22.12.2006. During the month of December, 2006, the water and sewer connections were connected by the staff of respondent No.1 with petitioner's water and sewer lines, and since then the respondent No.1 is availing the water and sewer facilities from the petitioner. Not only that, the respondents were also regularly sending the bills of water and sewer connection to the appellant, which were cleared / deposited timely and regularly. In May, 2012, the Sub Divisional Engineer HUDA (present petitioner), issued a letter to the Group Housing Society in Sector 43, Gurugram, including letter dated 25.05.2012 to respondent No.1 intimating that a sum of Rs. 46,750/- has been outstanding towards water/ sewerage bill, and directed him to deposit the same. Subsequently, it was informed by respondent No.1, that the amount which is demanded, has already been paid through cheque, and thereupon, the HUDA-the present petitioner, issued a memo dated 25.05.2012, alleging unauthorized sewerage connection with HUDA line without sanction, and also threatened to disconnect the said



sewerage connections. Thereafter, on dated 07.03.2014, respondent No.1 submitted a complete file for regularization of sewerage connection before the petitioner, but instead of regularizing the sewer connections, the demand notice dated 31.12.2014, was issued against respondent No.1. As per the demand notice, penal charges has been imposed from November, 2011 to August, 2014, and the total amount which was demanded was Rs. 30,00,370/-. Thereafter, in pursuance to the demand notice, 10% of the demanded amount was deposited, which is required as per Clause 10(C) para 3 of HUDA water bye laws, through cheque dated 19.01.2016, and then a statutory appeal regarding waiver of penalty was filed, and thereupon, a further notice was received from the Superintending Engineer, HUDA on dated 31.08.2012, for depositing of 50% of the disputed bill.

3. Having aggrieved with the conduct of the petitioner, the respondent preferred a petition under Section 22-C of the Legal Services Authorities Act, before the Permanent Lok Adalat (Public Utility Services) Gurugram, which was duly contested by the petitioner by filing a detailed written statement. It was averred in the written statement that respondent No.1, unauthorizedly connected the sewer line of the Society with the main sewer line, for which they are liable to pay penalty, as per regulations, and a notice for recovery of penalty has been issued to them as per law.

4. Learned Permanent Lok Adalat (Public Utility Services) Gurugram made an effort to decide the issue amicably, so as to adhere the provisions of Section 22-C(8) of the Legal Services Authorities Act. Having remain failed, the matter was finally adjudicated on merits. The facts which are not under dispute that in the instant case occupation



certificate for the Housing project of respondent No.1, was issued on 31.10.2006. It is not in dispute, that the water and sewer connection were applied as per the direction given by the petitioner on dated 03.10.2006, and the requisite demanded amount was deposited towards charges, and other formalities were also completed, and thereafter, the water and sewer connections were sanctioned to respondent in October, 2006, for which respondent No.1 has placed reliance upon memos Annexure “D”, and Annexure “D-1”. From the facts above, it is crystal clear that once the occupation certificate has been issued in favour of respondent No.1, it is presumed that he has made all requisite compliance, not only with regard to the electricity, but also with regard to sewer and water connections. It is not under dispute that during this intervening period, demand notices period, respondent No.1 was regularly depositing the bills not only with regard to the water, but also for the services of sewer. Therefore, merely since the sewer connection was not sanctioned on paper, that cannot give a cause of action to the petitioner to raise a demand that too after eight years after issuance of the occupation certificate.

5. This aspect has been considered by the learned Permanent Lok Adalat, which is extracted hereinafter :-

“7. For the first time and all of a sudden respondent no. 6 issued a demand notice vide memo no. 2648 dated 31-12-2014 regarding penalty of Rs. Rs.30,00,370/- towards unauthorized connection of sewer line. The applicant replied to the said demand notice and requested for providing the details of billing amount and regularizing of the sewer connection. Thereupon respondent no. 5 issued a letter no. 95 dated 04-



02-2015 regarding penalty of Rs. 30,00,370/- alongwith details of sewerage charges for the period November 2006 to August 2014. The details of penalty amount have been given in para 13 of the application under section 22 (C) and in the endorsement no. 95 dated 04-02-2015, vide annexure 'O'. According to this calculation, the respondents made a demand of sewer charges for the period of 94 months from November 2006 to August 2014. In addition to that, they demanded Rs. 10,000/- on account of sewer connection fee and Rs. 30,000/- on account of sewer connection security.

8. The respondents have not given any reason or justification nor they have shown any rule or regulation under which they can effect recovery of charges of unauthorized sewer connection for a period of more than three years which is the normal period of limitation for recovery of any amount. So even if the respondents as per Regulation 4 (VII) (a) (b) and Regulation 5 (1) of Haryana Urban Development Authority Water Regulations are entitled to recover five times the normal rates of sewer charges for 6 months and 10 times of the normal rate of sewer charges for the remaining period, they cannot make a demand for a period beyond three years i.e. 36 months. If the penal rate is calculated for the 6 months at five times the normal rate and the penal rate is calculated at 10 times the normal rate for the next 30 months as detailed in endorsement no. 95 dated 04-02-2015 and annexure 'O' as well as in para 13 of the application, the amount payable by the applicant organization as penalty for unauthorized use of sewer connection comes to Rs. 10,66,230/- i.e. (i) $402 \times 8 \times 5 \times 6 = 96,480/-$ (ii) $402 \times 8 \times 10 \times 30 = 9,64,800/-$ (iii) $5 \times 3 \times 5 \times 6 = 450$ (y) $5 \times 3 \times 10 \times 30 = 4500$. An amount of Rs. 10,000/- on account of sewer connection fee and an amount of Rs. 30,000/ on account of sewer connection security has to be added to it. So the applicant organization is liable in all to pay



Rs. 11,06,230/- to the respondents towards the unauthorized use of sewer connection plus sewer connection fee and sewer connection security. An amount of Rs. 3,00,037/- has already been deposited by the applicant towards this payable amount by the applicant organization with the respondents through check no. 453402 dated 19-01-2016 drawn at SBI, Gurgaon, annexure P & Q. So the applicant organization is liable to pay the balance amount of Rs. 8,06,193/- to the respondents towards unauthorized dues or sewer connection plus sewer connection fee and sewer connection security.”

6. In view of the above, this Court does not find any irregularity, or any error requiring any interference, therefore, the instant petition being bereft of merit, and therefore, is ordered to be **dismissed**.

10.02.2025

Satyawan

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No