

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

**MISCELLANEOUS APPLICATION NO. 459 OF 2022
IN
FA/1269/2017**

1. ARCHIT GUPTAAppellants(s)

Versus

1. JALANDHAR IMPROVEMENT TRUST & ANR.Respondent(s)

BEFORE:

**HON'BLE MR. JUSTICE RAM SURAT RAM MAURYA,PRESIDING
MEMBER**

HON'BLE BHARATKUMAR PANDYA,MEMBER

FOR THE APPELLANT : MR. VARUN BEDI, ADVOCATE

FOR THE RESPONDENT : NEMO

Dated : 30 January 2024

ORDER

1. Heard Mr. Varun Bedi, Advocate, for the appellant-applicant.
2. Archit Gupta (the complainant) has filed above application for passing appropriate order with regard to higher/penal interest and other compensation/costs against the respondents as per order dated 14.06.2019, passed in above appeal and connected FA/996/2017.
3. Archit Gupta filed CC/88/2015, for directing the respondents to (i) refund Rs.4899075/- with interest @16% per annum from the date of respective deposit till the date of refund; (ii) pay Rs.500000/- as compensation for mental agony and harassment; and (iii) pay Rs.55000/- as litigation cost. The complainant stated that the OPs floated a scheme of township of developed plots in the name of "Surya Enclave Extension", on 08.08.2011. The complainant applied for allotment on 07.09.2011 and deposited application money. The OPs allotted the plots through lottery draw held on 04.11.2011, in which, the complainant was successful. The OPs issued allotment letter dated 23.12.2011 to the complainant. Balance amount was payable within 30 days or 25% within 30 days and 75% with interest, in 5 instalments. The complainant opted for payment in instalment. The complainant deposited Rs.425000/- on 07.09.2011, Rs.808450/- on 20.01.2012, Rs.796875/- on 15.06.2012, Rs.765000/- on 17.12.2012, Rs.733125/- on 18.06.2013, Rs.701250/- on 23.12.2013 and Rs.669375/- on 18.06.2014 (total Rs.4899075/-). As per allotment, due date for possession expired on 22.07.2014 but the OP neither executed agreement for sale nor handed over possession to the complainant over the plot allotted to him. Later on, the complainant came to know that the land owners, namely Arjan Singh and other filed CWP No.3559 of 2011 before Punjab & Haryana High Court, challenging acquisition of the land, in which, High Court vide order dated 08.03.2011, directed the parties to maintain status quo. In spite of interim order dated 08.03.2011, the OPs have floated the scheme on 08.08.2011 and collected money from the

complainant and other allottees. The OPs have committed unfair trade practice and liable to refund the money and pay compensation.

4. State Commission consolidated above complaint along with various other complaints filed for refund of money in respect of the same project and vide judgment dated 07.03.2017, allowed the complaint and directed the OPs to refund Rs.4261575/- with interest @9% per annum from the date of filing of the complaint till the date of payment and pay Rs.400000/- as compensation and Rs.20000/- as cost out of which, Rs.10000/- was payable to the complainant and Rs.10000/- had to be deposited Legal Aid Account.

5. The OPs filed FA/996/2017 and the complainant filed FA/1269/2017 from the aforesaid judgment. In FA/996/2017, this Commission, while granting interim order, directed the OPs to deposit 50% decretal amount before District Forum. In compliance of interim order, the OPs deposited Rs.3143933/- before District Forum vide DD No.021046 dated 03.07.2017. Both the appeals were consolidated and decided vide order dated 07.05.2019 followed by reasoned judgment dated 14.06.2019. This Commission partially modified the order of State Commission and directed the OPs to refund principal amount of Rs.4899075/- deposited by the complainant with interest from the respective date of deposit till the date of realization. The rate of interest shall be the rate of house building loan in the corresponding period of a scheduled nationalized bank (take State Bank of India). If floating/varying/different rates of interest were prescribed in the corresponding period, the higher rate shall be taken for this instant calculation. The amount of compensation of Rs.400000/- and cost of Rs.20000/- as awarded by State Commission have been upheld. The OPs challenged above order before Supreme Court in SLP, which was dismissed on 06.12.2019.

6. The complainant filed EA/460/2019 for execution of the decree as the OPs failed to pay the decretal amount to the complainant within four week time allowed as in the order dated 07.05.2019. The OPs paid Rs.3000000/- vide DD dated 21.10.2020, Rs.500000/-, vide cheque dated 07.12.2020, Rs.500000/- vide cheque dated 01.02.2021, Rs.968843/- vide cheque dated 25.08.2021 and Rs.3878238/- through various cheques dated 29.10.2021. State Commission, vide order dated 28.09.2021, directed District Commission to release the amount of Rs.3143933/-, along with accrued interest to the complainant although, the complainant in his calculation of decretal amount (filed on pg-32 of this MA) has shown balance of Rs.1263864/- as on 30.11.2021.

7. In view of the observation in later part of paragraph-25 of the judgment dated 14.06.2019, the complainant filed this application for awarding higher penal interest and other compensation as the OPs have failed to pay decretal amount within four week, as directed by the order dated 07.05.2019.

8. Supreme Court, in **State Bank of India Vs. S.N. Goyal, (2008) 8 SCC 92** and **Mittal Nippon Steel India Ltd. Vs. Essar Bulk Terminal Ltd., AIR 2021 SC 4350**, held after pronouncement of judgment, the court or quasi judicial authority becomes functus officio. Only procedural part of the order or any clerical mistake can be corrected after pronouncement of the judgement. This Commission has pronounced reasoned judgment on 14.06.2019. Now this judgment cannot be modified in respect of awarding higher penal interest and other compensation. After pronouncing the judgment, this Commission has

become functus officio and could not reserve any further jurisdiction for modifying the order again and again. Miscellaneous application is not maintainable and it is rejected.

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RAM SURAT RAM MAURYA
PRESIDING MEMBER

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BHARATKUMAR PANDYA
MEMBER