

Raheja Developers Limited vs Delhi Development Authority & Anr on 3 February, 2023

Author: Sachin Datta

Bench: Sachin Datta

\$~1 (Another Bench Matter)

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W. P. (C) 13562/2022, CM APPL. 3800/2023

RAHEJA DEVELOPERS LIMITED

..... Petitioner

Through: Mr. Rajshekhar Rao, Sr. Adv. with
Ms. Manmeet Kaur, Mr. Chandan,
Ms. G. Khanna, Mr. Gurtej Pal Si
and Ms. Vishakha, Adv.

versus

DELHI DEVELOPMENT AUTHORITY & ANR..... Respondents

Through: Mr. Sanjay Katyal, Standing Counsel
for DDA, with Mr. Gaganmeet Singh
Sachdeva, Adv.
Mr. Amit Tiwari, SPC with Mr.
Vedansh Anand, Adv.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA
ORDER

% 03.02.2023

1. The present petition seeks review of the order dated 26.09.2022, wherein it was directed as under:

"1. Issue notice.

2. Learned counsel, as aforesaid, appear and accept notice on behalf of the respondents.

3. Let counter affidavit be filed within a period of four weeks from today. Rejoinder thereto, if any, be filed before the next date of hearing.

4. Learned Senior Counsel appearing on behalf of the petitioner draws attention to a letter/order dated 15.06.2022 issued by the Executive Engineer, NMD-4 (Erstwhile WD-5)/DDA addressed to the petitioner, wherein it is stated as under:

" The records regarding maintenance of transit camp has not been maintained neither by you nor DDA. To sort out the maintenance payment issue department has decided to refer the matter to "mediation committee"

comprise of three members as below: -

1. Representative from DDA as appointed by VC, DDA.
2. Representative of M/s Raheja Developer Pvt. Ltd. as appointed by their CMD.
3. Independent member as suggested by Ministry of Housing & Urban Affairs to head the committee.

In view of above, you are requested to appoint your representative for mediation panel and informed his details to this office for taking further necessary action."

5. Learned senior counsel for the petitioner submits that in pursuance of the aforesaid, the petitioner has nominated its representative on the proposed mediation committee; however, the mediation committee has not been fully constituted.

6. The respondents are directed to expeditiously constitute the mediation committee in accordance with the decision recorded in the aforesaid communication dated 15.06.2022, and preferably within a period of four weeks from today.

7. List on 21.02.2023."

2. It is contended by Mr. Sanjay Katyal, learned standing counsel for the DDA/Review Petitioner that after the aforesaid order came to be passed, the proposal for constituting a mediation committee in terms of the letter/order dated 15.06.2022, was placed before the Hon'ble Lieutenant Governor, pursuant to which the proposal to refer the matter to mediation is stated to have been declined. Hence, the present review petition has been filed.

3. Learned counsel for DDA draws attention to the dispute resolution stipulation incorporated in Clause 76 of Development Agreement dated 04.09.2009 which reads as under:

" 76:

If a dispute of any kind whatsoever arises between the Authority and the Developer in connection with or arising out of the Contract or the execution of the Works, whether during the execution of the Works or after its completion and whether before or after repudiation or termination of the Contract, including any dispute as to any decision, opinion, consent, expression of satisfaction, approval, determination of value, action or instruction of the Authority, the matter in dispute shall be referred in writing to the Vice Chairman, DDA. Such reference shall state that it is made pursuant to this Clause. No later than 28 days after the day on which it received such reference, the Vice Chairman of the Authority shall give notice of its decision of the same to the Developer. Such decision shall state that it is made pursuant to this Clause and the decision of the Vice Chairman shall be final."

4. After some hearing, it has been suggested to Mr. Katyal, learned standing counsel for DDA that since the Vice Chairman, DDA is entrusted with adjudicatory functions in terms of the aforesaid stipulation, it would be expedient and in the interest of justice, if the Vice Chairman, DDA himself mediates in the matter and make an attempt to arrive at an amicable resolution of the matter. Such a course would be desirable and could potentially obviate protracted litigation between the parties. Needless to say, the same would be necessarily without prejudice to respective rights and contentions of the parties.

5. Mr. Katyal, learned standing counsel for DDA seeks time to take instructions with regard to the aforesaid.

6. Renotify on 02.03.2023.

SACHIN DATTA, J FEBRUARY 3, 2023/ssc