

(2021) 03 DEL CK 0103

In the Delhi High Court

Case No : Civil Writ Petition No. 3135 Of 2021, Civil Miscellaneous Application
No. 9515 Of 2021

Vaibhav Gupta

APPELLANT

Vs

Real Estate Regulatory Authority & Ors

RESPONDENT

Date of Decision : 09-03-2021

Acts Referred:

Citation : (2021) 03 DEL CK 0103

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Gaurav Kumar, Akshay Verma, Deeptanshu Jain, Dhananjaya Mishra

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode (physical and virtual hearing).

WP(C) 3135/2021 & CM APPL. 9515/2021 (for interim directions)

2. The Petitioner in the present case is a lawyer who claims to be a proposed buyer of a flat in the project - Parsvnath La Tropicana, at Magazine Road, Khyber Pass, Civil Lines, Delhi -110054.

3. It is the submission of the Petitioner that the Petitioner wanted to purchase a flat in the said project and accordingly visited the project. On making enquiries, it was revealed that the project is not sanctioned as per the Real Estate (Regulation and Development) Act, 2016 (hereinafter 'RERA') and no registration has been given for the same. According to the Petitioner therefore, the entire construction is contrary to law and is unauthorised. The Petitioner also submits that flats of the said project are also being sold without permission from RERA.

4. On a specific query by the Court, Id. counsel for the Petitioner submits that the Petitioner has not booked any flat in the said property.

5. Mr. Akshay Verma, Additional Standing Counsel appearing for the Respondent no.3 - North Delhi Municipal Corporation (hereinafter 'NrDMC') submits that the building plan for this project has been sanctioned in the year 2020. Mr. Dhananjaya Mishra appearing for the GNCTD submits that if this is a case of unauthorised construction, the same ought to be dealt with by the Special Task Force set up for this purpose.

6. Mr. Deeptanshu Jain appearing for the Respondent No. 7 - the Project Parsvnath La Tropicana Phase 1, 2 & 3, submits that the plan for the project has already been sanctioned by the NrDMC and registration under RERA remains pending. He assures the Court that until the registration under RERA is granted, Respondent No. 7 is not selling any of the flats.

7. This Court has perused the documents on record, as also the photographs of the project. In so far as the Petitioner is concerned, this Court is of the opinion that the Petitioner would not have locus to file a writ petition against Respondent No. 7 on the ground that he is a 'proposed buyer'. The entire writ seems to be motivated.

8. In any event, the question as to whether the project is properly sanctioned in accordance with law or not is an issue which would have to be looked into by the authorities concerned. Since the building plan is stated to be sanctioned by the NrDMC and the registration under RERA is stated to be pending, the appropriate authorities under RERA shall ensure that all the compliances are duly made before the registration is granted.

9. In any event, if there is any issue of unauthorised construction, any aggrieved party would be permitted to approach the Special Task Force as held in the judgement of the Division Bench of this Court in W.P.(C) No. 1807/2018 titled Devender v. Govt. of NCT & Ors. The relevant portion of the judgement is as under:

7. That apart, by another Office Memorandum No. O-33011/1/2006- DDI issued by the DDA on May 23, 2018, an action plan for monitoring all ongoing construction activities in Delhi, fixing of responsibilities in case of violation of Master Plan, unified Building Byelaws and issues with regard to illegal constructions have been dealt with and even a plan for receipt of complaint with regard to illegal and unauthorized constructions already made and steps to be taken for their removal have been indicated. Once under the orders passed by the Hon'ble Supreme Court, a Special Task Force has been created and an action plan has also been drawn for the purpose of preventing any further illegal construction and also for removal of constructions unauthorizedly and illegally undertaken, now the purpose of all these writ petitions filed before us in public interest or otherwise stands fulfilled to a certain extent and further action are to be taken in the matter based on the duties entrusted to the Special Task Force and the action plan drawn under the supervision of the Hon'ble Supreme Court, that being so, it is not appropriate now for us to exercise our jurisdiction in all

these matters. Suffice it would be to say that all these petitioners are granted liberty to raise appropriate pleas before the authorities as are notified in the Office Memoranda dated April 25, 2018 and May 23, 2018 and the authorities are directed to proceed in the matter as directed by the Hon'ble Supreme Court and indicated in the above-mentioned Office Memoranda with regard to grievance of each of the petitioners.

10. The present petition does not deserve to be entertained in view of the above. The petition is dismissed in the above terms. The pending application is also disposed of.