

**BEFORE THE REAL ESTATE REGULATORY AUTHORITY,
PUNJAB**

Execution Application No.32 of 2023

in

Complaint No.GC1352 /2019

Dated of Decision:20.12.2023

Bhagwant Singh Charitable Trust, through its Chairman Shri H.S.
Mamik, House No.34, Sector 4, Chandigarh 160009

.....Applicant

Versus

ATS Infrabuild Private Limited, ATS Casa Espana, Village
Badmajra, Sector 121, District SAS Nagar, Mohali, Punjab
140103

.....Respondent

Present: Shri Inderjit Kaushal, Advocate for the applicant
Shri Hardeep Saini, Advocate for Shri J.P.Rana,
Advocate for the respondent

ORDER

This is an application for execution of order dated 21.06.2021 vide which the respondent was directed to pay interest to the applicant at the rate of 9.30% p.a. with effect from 18.9.2018 till a valid offer of possession relating to the allotted apartment was made.

2. It is contended in the execution application that vide order dated 08.06.2022 the respondent was directed by this Authority to pay Rs.27,55,586.00 to the applicant as on 21.05.2021 within a period of two months from the date of issue of order dated 08.06.2022. However, the same was not paid by the respondent and this Authority vide Memo No.RERA/Pb/Legal/2023/4184 dated 20.04.2023 sent the Recovery Certificate of the due

amount to the Deputy Commissioner-cum-District Collector, SAS Nagar, Mohali.

It is further contended that this is the second execution (Execution Application No.32 of 2023) application for recovery of further interest of Rs.20,66,688/- w.e.f. from 22.05.2021 till 22.05.2023 on the amount of Rs.1,12,65,567. It is further mentioned in the execution application that vide order dated 09.12.2022 Shri Ajay Pal Singh, the learned Member of this Authority imposed a penalty of Rs.5.00 lakhs under Section 63 of the Real Estate (Regulation and Development) Act, 2016, (hereinafter referred to as the Act) for not complying with the directions contained in order dated 08.06.2022. It is the prayer of the applicant that the amount of Rs.20,66,688/- be recovered from the respondent by selling the land mentioned in the list of properties.

3. Notice of the execution application was served upon the respondent for 12.07.2023. On this date Shri Hardeep Saini, the learned Counsel for the respondent appeared and sought time to submit his reply and four week's time was granted to him to submit his reply with an advance copy to the learned Counsel for the complainant/applicant and the matter was adjourned to 09.08.2023. On this date, Shri J.P.Rana, the learned Counsel for the respondent appeared and stated that no reply is to be filed in this execution application and undertook to make the payment of Rs.27,00,000/- (in terms of order dated 08.06.2022) within four



week's time. The learned Counsel for the complainant agreed and the matter was adjourned to 20.09.2023. Since the Coram was not complete on 20.09.2023 the case was fixed for hearing on 25.10.2023. As Coram was incomplete on 25.10.2023 the matter was taken up on 22.11.2023. However, when the matter was taken up on the said date, the learned Counsel for the respondent stated that due to financial crunch respondent was unable to pay Rs.27,00,000/- but added that the said payment of Rs.27,00,000/- would be made before the Revenue Authorities as per execution order dated 08.06.2022.

The learned Counsel for the complainant stated that the present execution application is the second execution application and that there is further delay of two years in making the payment of interest and as per further calculation a sum of Rs.20,66,688.00 is due from the respondent for above said two years. On the request of the learned Counsel for the respondent, two week's time was granted to him to submit the calculation sheet with an advance copy to the learned Counsel for the complainant and the matter was reserved for pronouncement of orders.

It is noted that the learned Counsel for the respondent has not submitted the calculation sheet as ordered on 22.11.2023, till date.



4. We have gone through the record of this execution application. There is no dispute about the fact that vide order dated 21.05.2021 the respondent was directed to pay interest to the applicant at the rate of 9.30% p.a. with effect from 18.9.2018 till a valid offer of possession was made.

5. It is also noted that respondent has not bothered to file his reply to explain as to why he has not complied with the said order. Further, it is a matter of grave concern that the respondent has brazenly flouted the orders dated 21.05.2021 and 08.06.2022 and has shown no regard towards making compliance of the said order of the Authority. This is a serious matter wherein the respondent has been disobeying the orders of this Authority and acting at his own free will. The respondent is directed to comply with the directions contained in the said orders in letter and spirit without fail.

6. From the above discussion, it is clear that the order dated 21.05.2021 has not been complied with by the respondent as on today. This is the reason that the present execution application has been moved by the complainant/ applicant. It is held that the applicant is entitled for interest for delay of further period of two years w.e.f. 22.05.2021 to 22.05.2023 to the tune of Rs.20,98,266/-.

7. This application is accordingly accepted and the respondent is directed to pay a sum of Rs.20,98,266/- towards interest to

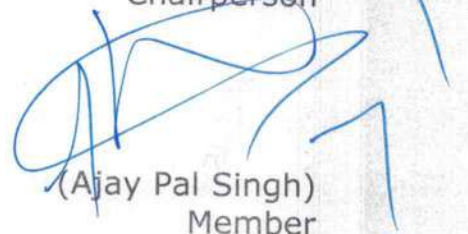


the applicant calculated from 22.05.2021 to 22.05.2023. Recovery Certificate be issued to the District Collector, SAS Nagar, Mohali, Punjab to affect the recovery of the arrears of interest amounting to Rs.20,98,266/- (as per calculation sheet attached as Annexure-1) from the respondent.

8. It is also made clear that if the order dated 21.05.2021 and this order is not complied with by the respondent within a period of sixty days of the receipt of this order, Registry is directed to initiate proceedings under Section 63 of the Act of 2016 against the respondent.



(Satya Gopal)
Chairperson



(Ajay Pal Singh)
Member



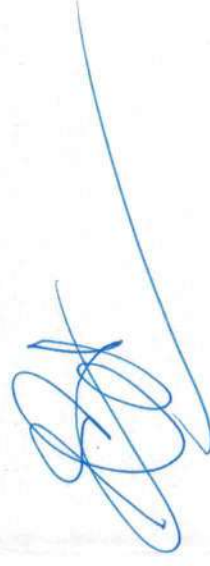
(Rakesh Kumar Goyal)
Member

Details of Interest Calculation for order dated 21.05.2021

Case Title - Bhagwant Singh Charitable Trust vs ATS Infrabuild Private Limited

Interest payable from	Amount	Interest calculated till	SBI highest MCLR as on 21.05.2021+2%	No. Of days	Interest Amount
22-05-2021	1,12,65,567	22-05-2023	9.30	731	20,98,266
	1,12,65,567				20,98,266

Principal Amount	
Interest	20,98,266
Litigation Amount	
Total	20,98,266

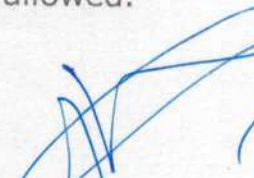


**Bhagwant Singh Charitable Trust Vs ATS Infrabuild Pvt.
Ltd.**

20.12.2023

Present: Shri Inderjit Kaushal, Advocate for the applicant
Shri Hardeep Saini, Advocate for Shri J.P.Rana,
Advocate for the respondent

Vide separate order, the execution application is
allowed.


(Ajay Pal Singh)
Goyal)Member


(Satya Gopal)
Chairperson


(Rakesh Kumar)
Member