

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3307 of 2019(O&M)
Date of decision: 20.07.2022

Rajiv Gosain

..Petitioner

Versus

M/s Inergest India International Ltd. and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Lokesh Sinhal, Advocate
for the petitioner.

Mr. Arshad Ali, Advocate, for,
Ms. Amrita Nagpal, Advocate
for respondent no.1.

Mr. Vikram Anand, Advocate
for respondent no.2.

ANIL KSHETARPAL, J(Oral)

A small dispute arising from the suit for grant of decree of specific performance of the agreement to sell has come to this Court.

An application filed by the plaintiff under Order 12 Rule 3A read with Section 151 CPC for requesting admission or denial of the various documents by the other party has been dismissed by the Court.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

In para 2 of the application, the plaintiff has enlisted the documents in the following manner:-

- “i. Flat buyers agreement dated 15.12.1997 pertaining to flat No.420B , Hamilton Court DLF City Phase - IV , Gurgaon .
- ii. Letter dated 17.05.1999 issued by Intergerst to DLF.
- iii. Letter dated 26.05.1999 reply from DLF to Intergerst.
- iv. Letter 28.12.1999 alongwith details of cheque issued to DLF before taking possession

- v. Letter dated 18.01.2000 from Intergerst regarding formalities before possession .
- vi. Letter dated 21.01.2000 from DLF intimation of allotment of parking PH-95
- vii. Letter dated 15.02.2000 from Intergerst to DLF to increase load of electricity .
- viii. Letter dated 07.03.2000 from Intergerst to DLF for request cancellation of one flat and adjusting with the other .
- ix. Letter dated 05.04.2000 from DLF to Intergerst informing its inability to cancel the booking.
- x. Copy of letter 12.10.2000 by DLF to Intergerst to take possession as per undertaking dated 04.10.2000 .
- xi. Copy of acceptance dated 19.10.2000 and 20.10.2000 (colly) on the letter dated 12.10.2000 .
- xii. Copy of agreement dated 02.11.2007 between plaintiff and defendant No.1 .
- xiii. Copy of order dated 21.04.2005 passed by NDRC .
- xiv. Copy of written statement dated 07.06.2006 filed by defendant no.2 DLF alongwith affidavit of Sh . Manjit Singh , authorised signatory of DLF .
- xv. Copy of letter dated 18.09.2000 by Intergerst to DLF to cancel both allotments .
- xvi. Copy of letter dated 22.09.2000 from DL to defendant No.1 showing inability to cancel the allotments .
- xvii. Copy of letter dated 11.01.2001 by Intergerst to DLF.
- xviii. Copy of letter dated 15.01.2001 by DLF to interest .
- xix. Copy of letter dated 19.07.2003 from DLF to Intergerst .
- xx. Copy of letter dated 29.07.2003 Intergerst to DLF .
- xxi. Copy of form 32 dated 02.12.1998 filed by Rajiv resigning from the position of Director from Intergerst .
- xxii. Copy of reply in the form of affidavit alongwith affidavit filed by defendant No.2 in CRL.M.C No.553 / 2004 in 2005 .
- xxiii. Copy of relevant extract from the DLF prospectus pertaining to its public issue dated 18.06.2007 .
- xxiv. Copy of mediation report dated 27.11.2007.
- xxv. Copy of letter dated 12.11.2007 from Intergerst to DLF about sale agreement between Intergerst and Rajiv .
- xxvi . Copy of indemnity bond dated 26.11.2001 given by plaintiff to defendant No.2 .
- xxvii . Copy of order dated 10.01.2008 passed by Delhi High Court .
- xxviii. Copy of letter dated 04.02.2008 issued by Intergerst to DLF.
- xxix. Copy of joint statement dated 05.02.2008 alongwith affidavits given by defendant No.1 and defendant No.2 before Delhi High Court.
- xxx. Copy of order dated 11.02.2008 passed by Hon'ble High Court alongwith copies of complaints (colly).
- xxxi. Copy of order dated 10.03.2008.
- xxxii. Copy of orders dated 19.03.2008.
- xxxiii. Copy of conveyance deed of flat No.420 - B executed on

30.10.2008

- xxxiv . Copy of possession letter dated 19.12.2009.
- xxxv . Copy of telephone bills , gas connection 1 to 10 colly
- xxxvi . Copy of electricity bills 1 to 18 colly .
- xxxvii . Copy of receipts 1 to 6 colly .
- xxxviii . Copy of No Objection Certificates 1 to 3 colly .
- xxxix . Copy of Insurance cover receipts regarding property in question.
- xl. Copy of letter dated 14.06.2005.
- xli. Copy of letter dated 23.08.2005.
- xlii. Copy of email between plaintiff and DLF 1 to 4 colly .
- xliii. Copy of letter dated 21.05.2008 .
- xliv. Copy of Email dated 22.06.2011 by plaintiff to Hamilton association .
- xlv. Copy of Email dated 29.06.2011 from Estate Manager informing about allowing DLF to enter property in question on the basis of court order.
- xlvi. Copy of complaints filed by plaintiff to various department colly 1 to 6 .
- xlvii. Copy of complaint before Income Tax Department colly 1 and 2
- xlvi. Copy of report of handwriting experts namely Kamal Kant Kandelwal and Deepak Choudhary
- xlix. Copy of reply on of behalf of defendant before Hon'ble High Court of Delhi in CRL.M.C.553 / 2004 .”

The defendants are two corporate entities. The plaintiff is stated to have paid Rs.28,00,000/-. It is claimed by the plaintiff that defendant no.1 represented that it is the allottee in possession of the residential apartment/Flat No.B on 20th Floor in Building No.4 having a super area of 245.54 Sqm along with a reserved car parking slot in Hamilton Court, DLF City, Phase-IV, Gurugram.

The suit is pending for the last 12 years. Defendant no.2 is a Public Limited Company. It is expected to maintain the record of all its communications. The purpose of introducing the provisions for admission and denial of documents is to reduce the burden of proving documents which are not disputed.

Keeping in view the aforesaid facts, let defendant no.2 file an affidavit of a responsible officer admitting or denying the existence and correctness of the documents.

It may be noted here that defendant no.1 did not choose to contest the application.

Disposed of accordingly.

All the pending miscellaneous applications, if any, are also disposed of.

July 20th, 2022

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*