

**BEFORE SHRI J. S. KHUSHDIL,  
ADJUDICATING OFFICER,  
REAL ESTATE REGULATORY AUTHORITY,  
PUNJAB MANDI BHAWAN, SAS NAGAR, (MOHALI).**

Misc. Application No.05 of 2018

Date of Institution: 14.06.2018

Dated of Decision: 04.09.2018

Hans Raj son of Sh. Maam Chand resident of Suniar Basti, Patran  
Tehsil Patran District Patiala.

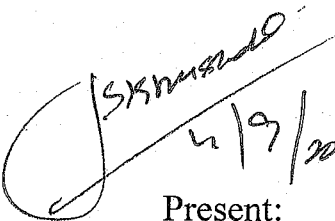
.....Complainant/respondent

Versus

Sh. Jarnail Singh Bajwa son of Sh. Bishan Singh, Managing Director  
of M/s Bajwa Developers Limited, SCO No.17-18, Sunny Enclave,  
Desu Majra, Tehsil Kharar District Mohali, presently having the  
office at Sunny Business Centre, KFC 5<sup>th</sup> floor, New Sunny Enclave,  
Sector-125, Mohali.

.....Applicant

Application for setting aside the ex-parte order dated  
25.05.2018 under Section 31 read with Section 71 of The  
Real Estate (Regulation and Development) Act 2016 and  
Rule 37 of Punjab State Real Estate (Regulation and  
Development) Rules.

  
4/9/2018  
Present: Shri Manpreet Singh, representative for the applicant  
Shri Hans Raj respondent/complainant with his  
representative Shri Vikram Singh

**ORDER**

1. Jarnail Singh Bajwa (hereinafter called as the applicant) has filed  
this application for setting aside order dated 25.05.2018 under

Section 31 read with Section 71 of The Real Estate (Regulation and Development) Act 2016 (in short the Act) and Rule 37 of Punjab State Real Estate (Regulation and Development) Rules (herein after referred to as the Punjab RERA Rules). It is submitted that the complaint under reference was filed on 05.02.2018 and was decided on 25.05.2018. The applicant received the copy of the order on 05.06.2018, from where it transpired that the applicant was proceeded against ex parte on 13.03.2018. It is averred in the application that the applicant was never served in the complaint case. In other six cases the applicant has appeared and filed replies and attended each and every date of hearing. The agreement referred to in the complaint is dated 04.05.2011, whereas, the present Act came in to force on 08.06.2017 and the operation of the Act is prospective in nature.

As such, the complaint is not covered under the provisions of Act.

The flat booked by the complainant was meant for economically weaker section of the Society and there was clear clause in the agreement to sell that the buyer would fulfill all the eligibility conditions for allotment of flat to the economically weaker section

of the society and the complainant did not fall in that category. It was prayed to set aside the order dated 25.05.2018.

2. Notice of this miscellaneous application was given to the complainant (respondent in this application), who has filed reply taking various preliminary objections to the effect that the application is not maintainable. The application is not moved through an authorized person, therefore, he has no locus standi to file the present application. The present applicant, who was respondent in the complaint was duly served and opportunity of being heard was given to the respondent to appear and defend his case, but, the applicant chose not to contest the complaint case; that the grounds taken up by the applicant to set aside the order are vague and not bona-fide and rather the application is not supported

by any affidavit. On merits, the other grounds have been denied and dismissal of the application is prayed for.

3. I have heard the learned representatives for the parties and have gone through the record with their able assistance.

4. The learned representative for the applicant has made a submission that the respondent was not served, therefore, he could not defend the case. It is also submitted that in some other cases,

the respondent is regularly appearing and defending the matter. The other grounds taken up in the application have also been reasserted and it was prayed to set aside the order in question.

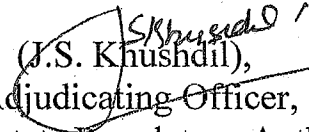
5. On the other hand, the learned representative for the respondent has submitted that the respondent was duly served with the notice and this Bench has rightly proceeded the applicant ex-parte.
6. The perusal of the file reveals that the respondent was duly served as per the report of the office. He was awaited till 4:32PM on 13.03.2018. As no one appeared on behalf of the applicant, therefore, this Bench proceeded him ex-parte. Thereafter the due process was followed and ultimately the matter was decided on 25.05.2018. Now, the applicant intends to get the said order set aside on various grounds. The strict principles of Civil Procedure Code are not applicable to this Authority except to the extent mentioned in the Act itself. The respondent has been duly served.

No cogent reason or ground has been disclosed by the applicant, which could be sufficient to convince this Bench so as to set aside the impugned order. No new ground has been disclosed, therefore, there is no merit in the application and the same is hereby dismissed and the applicant Jarnail Singh Bajwa is burdened with

*J. S. Singh*  
4/3/2018

costs of Rs.10,000/- to be paid to respondent/complainant Hans Raj. The file be consigned to record room.

Dated: 04.09.2018

  
(J.S. Khushdil),  
Adjudicating Officer, 4/9/2018  
Real Estate Regulatory Authority.